
STATUTORY INSTRUMENTS

1999 No. 1176

AGRICULTURE

The Land in Care Scheme (Tir Gofal) (Wales) Regulations 1999

<i>Made</i>	- - - -	<i>15th April 1999</i>
<i>Laid before Parliament</i>		<i>20th April 1999</i>
<i>Coming into force</i>	- -	<i>11th May 1999</i>

The Secretary of State, 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 conferred on him by the said section 2(2) and of all other powers enabling him in that behalf hereby makes the following Regulations:

Title, commencement and extent

1.—(1) These Regulations may be cited as the Land in Care Scheme (Tir Gofal) (Wales) Regulations 1999 and shall come into force on 11th May 1999.

(2) These Regulations extend to Wales only.

Interpretation

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

“agreement land” means land which is the subject of a Tir Gofal agreement;

“agreement year”, in relation to any Tir Gofal 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;

(1) S.I.1972/1811.
(2) 1972 c. 68.

“the Commission Regulation” means Commission Regulation (EC) No. 746/96(3) laying down detailed rules for the application of the Council Regulation, as last amended by Commission Regulation (EC) No. 435/97(4);

“the Council Regulation” means Council Regulation (EEC) No. 2078/92(5) 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(6) as rectified in turn by Commission Regulation (EC) No. 1962/96(7);

“Countryside Council” means the Countryside Council for Wales established by section 128 of the Environmental Protection Act 1990(8);

“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 Tir Gofal agreement holder who applies for aid under these Regulations and is not excluded from eligibility for that aid 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);

“general environmental conditions” means the environmental conditions set out in Part I of Schedule 1;

“interest”, in relation to land, means a freehold or leasehold interest in it;

“special project activity” means an activity in relation to agreement land which the Countryside Council considers—

- (a) should be carried out to enable one or more of the specified purposes in relation to that land to be fully achieved; and
- (b) is outside the range of activities specified in Schedules 2 to 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;

“Tir Gofal agreement” has the meaning given to it by regulation 3(3); and

“Tir Gofal agreement holder” means any person who has entered into a Tir Gofal 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 in which the reference occurs; and

(3) OJ No. L102, 25.4.96, p. 19.

(4) OJ No. L67, 7.3.97, p. 2.

(5) OJ No. L215, 30.7.92, p. 85.

(6) OJ No. L288, 1.12.95, p. 35.

(7) OJ No. L259, 12.10.96, p. 7.

(8) 1990 c. 43.

(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.

(3) Words and phrases used in Schedules 1 to 4 and not defined in paragraph (1) shall be construed in accordance with Schedule 5.

Power to enter into agreements

3.—(1) In any case where the Countryside Council is of the opinion that, in relation to any land, the following of the general environmental conditions and the carrying out of activities by any person who has an interest in that land would be conducive to the specified purposes, that body may, subject to paragraphs (6) and (7) below, enter into a Tir Gofal agreement with that person.

(2) In this regulation “the other party” means a person within the description in paragraph (1), being the particular person in the case in question.

(3) For the purposes of paragraph (1) above, a Tir Gofal agreement means an agreement which remains in force for a term specified in the agreement, provides for the other party to follow the general environmental conditions and to carry out the activities in question in relation to the agreement land and requires the Countryside Council to make payments of aid to the other party in respect of the following of the general environmental conditions and the carrying out of those activities on that land.

(4) A Tir Gofal agreement—

- (a) shall include provision that the other party must follow, in relation to the whole of the agreement land, the general environmental conditions;
- (b) shall include provision that the other party shall carry out on the agreement land the management activities specified in an entry in column 1 of Schedule 2 insofar as the habitats relevant to those activities exist on the agreement land;
- (c) shall, if both the Countryside Council and the other party so wish, include provision that the other party shall carry out one or more of the activities referred to in paragraph (5);
- (d) shall, in relation to the general environmental conditions and the activities referred to in subparagraphs (b) and (c), require or enable the Countryside Council to make payments of aid at the rates referred to in regulation 9; and
- (e) may include provision for the carrying out by the other party of a special project activity and for requiring or enabling the Countryside Council to make payments of aid for such an activity.

(5) The activities mentioned in subparagraph (4)(c) of this regulation are—

- (a) the management activities specified in an entry in column 1 of Schedule 3 to be carried out on any part of the agreement land; and
- (b) the capital activities specified in an entry in column 1 of Schedule 4 to be carried out on any part of the agreement land.

(6) The Countryside Council shall not enter into any Tir Gofal 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 it is satisfied that the conditions set out in that Article are fulfilled.

(7) The Countryside Council shall not enter into any Tir Gofal agreement unless the amount of land subject to that agreement comprises more than 3 hectares.

Aid for purposes conducive to conservation etc

4. Subject to regulation 6, the Countryside Council may make payments of aid in accordance with a Tir Gofal agreement to any eligible person.

Conditions for payment of aid

5. Any requirement in a Tir Gofal agreement to make a payment of aid 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 Tir Gofal agreement by which he is bound;
- (b) that he complies with the requirements of regulations 7 and 8 below; and
- (c) that he maintains an interest in the agreement land for the duration of the Tir Gofal agreement.

Payment of aid

6. Payments of aid under any Tir Gofal agreement may be made at any time during or after the agreement year provided that any such payment shall be made, in the case of a payment in relation to any capital activity in a Tir Gofal agreement specified in an entry in column 1 of Schedule 4, upon completion of the work.

Applications for aid

7. An application by a Tir Gofal agreement holder for aid under these Regulations shall be made at such time and in such form and shall contain or be accompanied by such information as the Countryside Council reasonably may require.

Notification of change of occupation

8.—(1) A Tir Gofal agreement holder (or, if he has died, his personal representative) shall notify the Countryside Council 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 Tir Gofal agreement is in force.

(2) Notification under this regulation shall be given within three months after the change of occupation concerned, or, where the Tir Gofal 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, and the Countryside Council enters into a Tir Gofal 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 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*).

Amounts of aid

9.—(1) Payments of aid made in relation to the general environmental conditions and the activities referred to in subparagraphs (4)(b) and (c) of regulation 3 shall be—

- (a) in relation to following all the general environmental conditions included in a Tir Gofal agreement, at the rates specified in Part II of Schedule 1;

- (b) in relation to each of the activities specified in column 1 of Schedules 2 to 4 and included in a Tir Gofal agreement, at rates not exceeding the maximum payment rates specified in column 2 of those Schedules corresponding to that activity.

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

Obligation to permit entry and inspection

10.—(1) A Tir Gofal agreement holder who applies for aid under these Regulations shall permit any person duly authorised by the Countryside Council at all reasonable times and on production of his authority on demand, to enter upon the land to which a Tir Gofal agreement 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; and
- (b) ascertaining whether the terms of the Tir Gofal agreement have been duly complied with.

(2) A Tir Gofal agreement holder 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 8.

Withholding and recovery of aid

11.—(1) Where any Tir Gofal agreement holder, 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, the Countryside Council may withhold the whole or part of any payments of aid 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 aid thereunder to that person or such other person.

(2) Where a Tir Gofal agreement holder—

- (a) has failed to do something which he undertook to do if the aid was paid, or
- (b) is in breach of any conditions subject to which the aid was paid,

the Countryside Council may withhold the whole or any part of any aid payable to that agreement holder under these Regulations and may recover the whole or any part of any aid already paid to him.

(3) Any dispute in any particular case as to the withholding or recovery of aid 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⁽⁹⁾ or any statutory modification or re-enactment thereof for the time being in force.

(9) 1996 c. 23.

(4) Where the Countryside Council withholds or recovers aid under paragraph (2) above, it 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 Countryside Council a sum equal to no more than 10% of the aid paid or payable to the agreement holder under these Regulations.

(5) Where the Countryside Council takes any steps specified in paragraph (1), (2) or (4) above, it 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 Countryside Council terminates an agreement in connection with any step taken under paragraph (2) above, it 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

12.—(1) Where aid is paid under these Regulations by the Countryside Council 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 Countryside Council 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 Countryside Council of that rate.

Recovery of payments

13. In any case where an amount falls to be paid to the Countryside Council 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.

Amendment of agri-environment schemes

14. After regulation 11 of each of the statutory instruments set out in Schedule 6 there shall be inserted the following regulation:—

“Closing date for applications for aid

12. The Secretary of State shall not make a payment of aid under these Regulations unless an application for aid under regulation 4 is received by him before 11th May 1999.”.

15. After regulation 11 of the Moorland (Livestock Extensification) (Wales) Regulations 1995(10) there shall be inserted the following regulation—

“Closing date for applications for aid

12. The Secretary of State shall not make a payment of aid under these Regulations unless an application for aid under regulation 4 is received by him before 31st May 1999.”.

Signed by authority of the Secretary of State for Wales

15th April 1999

Jon Owen Jones
Parliamentary Under Secretary of State, Welsh
Office

SCHEDULE 1

Regulations 2(1) and 9(a)

PART I

General Environmental Conditions

1. Traditional field boundaries shall be retained and maintained.
2. Individual trees and small groups of trees shall be retained and protected unless—
 - (a) they cause a hazard or obstruction for people or livestock; or
 - (b) the Tir Gofal agreement holder is authorised to fell trees by virtue of a felling licence or with the approval of the Countryside Council.
3. Weatherproof traditional buildings shall be maintained and other features of archaeological or historic interest on agreement land shall be protected.
4. The agreement land shall be kept free of rubbish, litter and derelict machinery.
5. Fertilisers, lime and pesticides shall not be applied to a strip of land one metre wide adjacent to any traditional field boundary.
6. Geological features shall be protected and fertilisers, lime and pesticides shall not be applied to a strip of land two metres wide adjacent to any surface rock feature.
7. Water features shall be protected and fertilisers, lime and pesticides shall not be applied to a strip of land one metre wide on land adjacent to the banks of such features.
8. Overall stocking levels on the agreement land shall not be increased above the levels agreed with the Countryside Council before the commencement of the Tir Gofal agreement.
9. All activities on or affecting the agreement land shall be carried out in accordance with any Code of Good Agricultural Practice which may be issued from time to time by the Secretary of State for Wales or the National Assembly for Wales.
10. Public access on foot to all unenclosed moorland, heathland and grassland shall be provided.
11. The prior approval of the Countryside Council shall be obtained before any of the following activities are carried out on the agreement land—
 - (a) introducing any non-native species of plant or animal;
 - (b) erecting new buildings and modifying existing buildings other than farmhouses;
 - (c) constructing tracks, roads, yards or hardstandings;
 - (d) constructing new hedges, walls, fences or earth banks;
 - (e) excavating land and depositing spoil;
 - (f) realigning, damming or dredging watercourses or altering the water level of a water feature;
 - (g) creating new water abstraction points or increasing existing levels of abstraction from established water abstraction points;
 - (h) controlling bracken;
 - (i) organised recreational activities;
 - (j) locating new livestock feeding sites;
 - (k) depositing any off farm wastes;
 - (l) quarrying or removing stone (including isolated boulders), scree, sand, shingle, gravel, clay or peat; and

- (m) clearing any areas of scrub, planting trees and any work in woodland not included in a Woodland Grant Scheme agreement.

PART II

Payment Rates for Following the General Environmental Conditions

1. The amount of aid payable for following all the general environmental conditions shall be at the rate of £25 per hectare per agreement year, except that insofar as the agreement land exceeds 20 hectares the rates shall be—

- (a) £15 per hectare per agreement year for each hectare which exceeds 20 hectares up to and including 50 hectares,
- (b) £10 per hectare per agreement year for each hectare which exceeds 50 hectares up to an including 100 hectares, and
- (c) £5 per hectare per agreement year for each hectare which exceeds 100 hectares up to and including 410 hectares.

2. No aid shall be payable for following the general environmental conditions insofar as the agreement land exceeds 410 hectares.

SCHEDULE 2

Regulations 2(1), 3(4)(b) and 9(1)(b)

Mandatory Management Activities

Column 1 Activity	Column 2 Maximum payment rate
1. In relation to woodland and scrub—	£125 per hectare per agreement year
(a) management of semi-natural broadleaved woodland which is—	
(i) ungrazed	
(ii) lightly grazed	£95 per hectare per agreement year
(iii) grazed but not lightly grazed	£10 per hectare per agreement year
(b) (b) management of scrub	£30 per hectare per agreement year
(c) (c) management of orchards and farmed parklands which are—	£80 per hectare per agreement year
(i) semi-improved grassland	
(ii) improved grassland	£80 per hectare per agreement year
(iii) arable land	£20 per hectare per agreement year
2. In relation to the management of heathland which is—	£30 per hectare per agreement year
(a) high mountain heath	
(b) (b) upland heath	£50 per hectare per agreement year
(c) (c) lowland heath	£80 per hectare per agreement year

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Column 1 Activity	Column 2 Maximum payment rate
3. In relation to grassland—	£55 per hectare per agreement year
(a) management of unimproved acid grassland which is—	
(i) enclosed land	
(ii) unenclosed land	£40 per hectare per agreement year for the first 200 hectares and then £30 per hectare per agreement year for land which exceeds 200 hectares up to and including 500 hectares and £15 per hectare per agreement year for land which exceeds 500 hectares
(iii) common land	£40 per hectare per agreement year for the first 200 hectares and then £30 per hectare per agreement year for land which exceeds 200 hectares
(b) (b) management of unimproved neutral grassland which is—	£90 per hectare per agreement year
(i) grazing land	
(ii) haymeadow	£145 per hectare per agreement year
(c) (c) management of unimproved limestone grassland	£130 per hectare per agreement year
(d) (d) management of semi-improved grassland which is—	£90 per hectare per agreement year
(i) grazing land	
(ii) haymeadow	£145 per hectare per agreement year
(e) (e) management of marshy grassland	£80 per hectare per agreement year
4. In relation to wetlands—	£40 per hectare per agreement year
(a) management of blanket bogs	
(b) (b) management of raised bogs	£50 per hectare per agreement year
(c) (c) management of reedbeds, swamps and species-rich fens	£35 per hectare per agreement year
5. In relation to coastal areas	£180 per hectare per agreement year
(a) management of improved land which is coastal grazing marsh and floodplain grassland	
(b) (b) the management of saltmarshes which are—	
(i) short turf	£80 per hectare per agreement year
(ii) managed for breeding birds	£170 per hectare per agreement year
(iii) ungrazed saltmarsh	£40 per hectare per agreement year

Column 1 Activity	Column 2 Maximum payment rate
(c) (c) management of maritime cliffs and slopes which are– (i) grazed land	£110 per hectare per agreement year
(ii) ungrazed land	£10 per hectare per agreement year
(d) (d) management of sand dunes	£70 per hectare per agreement year

SCHEDULE 3

Regulations 2(1), 3(5)(a) and 9(1)(b)

Optional Management Activities

Column 1 Activity	Column 2 Maximum payment rate
1. In relation to arable land–	£120 per hectare per agreement year
(a) establishment of unsprayed cereal, rape and linseed crops: (i) on existing arable land	
(ii) on arable land converted from improved grassland	£390 per hectare per agreement year
(b) (b) management of winter stubbles– (i) after a conventional crop	£80 per hectare per agreement year
(ii) after an unsprayed cereal crop	£120 per hectare per agreement year
(c) (c) establishment of spring cereals undersown with grasses and legumes	£90 per hectare per agreement year
(d) (d) establishment of unsprayed root crops followed by winter grazing	£235 per hectare per agreement year
(e) (e) establishment of rough grass margins	£350 per hectare per agreement year
(f) (f) establishment of uncropped fallow margins	£450 per hectare per agreement year subject to no payment being made for more than 3 hectares in any agreement year
(g) (g) establishment of a wildlife cover crop	£350 per hectare per agreement year subject to no payment being made for more than 3 hectares in any agreement year
(h) (h) conversion of arable land to grassland: (i) conversion to improved grassland where there is light grazing	£95 per hectare per agreement year
(ii) conversion to semi-improved haymeadow	£165 per hectare per agreement year

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Column 1 Activity	Column 2 Maximum payment rate
(iii) conversion to semi-improved grazed pasture	£210 per hectare per agreement year
(iv) conversion to improved grazing on coastal grazing marsh and floodplain grassland	£220 per hectare per agreement year
2. In relation to grassland restoration for the purpose of enhancing habitats and features—	£95 per hectare per agreement year
(a) conversion of improved grassland to semi-improved haymeadows—	
(i) parkland	
(ii) other improved grassland	£160 per hectare per agreement year
(b) (b) conversion of the following types of improved grassland to semi-improved grazed pasture—	£95 per hectare per agreement year
(i) parkland	
(ii) coastal grazing marsh and floodplain grassland managed for breeding birds	£100 per hectare per agreement year
(iii) coastal grazing marsh and floodplain grassland managed for breeding birds and wildfowl	£125 per hectare per agreement year
(iv) other improved grassland	£160 per hectare per agreement year
(c) (c) conversion of semi-improved enclosed grassland to unimproved grassland—	£80 per hectare per agreement year
(i) grazed semi-improved neutral grassland converted to grazed unimproved neutral grassland	
(ii) grazed semi-improved acid and limestone grassland converted to grazed unimproved acid and limestone grassland	£95 per hectare per agreement year
(iii) semi-improved haymeadow converted to unimproved haymeadow on neutral grassland	£110 per hectare per agreement year
(iv) semi-improved haymeadow converted to unimproved haymeadow on acid and limestone grassland	£130 per hectare per agreement year
3. In relation to the establishment of new habitats—	£1,600 per hectare (single payment)
(a) establishment of new broad-leaved woodland and scrub on sites of less than 0.25 hectares	

Column 1 Activity	Column 2 Maximum payment rate
(b) (b) the management of naturally regenerating broad-leaved woodland or newly planted broad-leaved woodland	£140 per hectare per agreement year
(c) (c) establishment of stream-side corridors	£310 per hectare per agreement year
(d) (d) establishment of new reed beds other than on saltmarshes	£310 per hectare per agreement year
(e) (e) establishment of heathland vegetation on acid grassland	£110 per hectare per agreement year
(f) (f) establishment of heathland vegetation on maritime cliffs and slopes	£70 per hectare per agreement year
(g) (g) establishment of heathland on improved land	£290 per hectare per agreement year
(h) (h) establishment of new saltmarshes	£230 per hectare per agreement year
(i) (i) establishment of new reedbeds on saltmarshes	£200 per hectare per agreement year
(j) (j) establishment of new sand dunes	£235 per hectare per agreement year
4. Managing buffer zones on improved land adjacent to ponds, lakes, streams and field boundary ditches	£180 per hectare per agreement year
5. Management of improved grassland–	£160 per hectare per agreement year
(a) for breeding lapwings	
(b) (b) for over-wintering wildfowl	£40 per hectare per agreement year
6. Increasing water levels–	£130 per hectare per agreement year
(a) on improved grassland which is being converted to semi-improved grassland	
(b) (b) on marshy grassland	£55 per hectare per agreement year
(c) (c) on improved land and coastal grazing marsh and floodplain grassland– managed for breeding birds	£80 per hectare per agreement year
managed for wildfowl	£50 per hectare per agreement year
(d) (d) on historic and archaeological sites	£130 per hectare per agreement year
7. In relation to public access–	£150 per agreement year plus £0.15 per metre per agreement year

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Column 1 Activity	Column 2 Maximum payment rate
(a) creation and maintenance of new footpaths for public access	
(b) (b) creation and maintenance of new bridleways and cycle paths	£150 per agreement year plus £0.30 per metre per agreement year
(c) (c) creation and maintenance of paths suitable for use by disabled people for public access	£150 per agreement year plus £0.30 per metre per agreement year
(d) (d) permitting access to agreement land for educational visits	£500 per agreement year
(e) (e) permitting other public access to areas of enclosed agreement land	£150 per agreement year plus £35 per hectare per agreement year

SCHEDULE 4

Regulations 2(1), 3(5)(b) and 9(1)(b)

Capital Activities

Column 1 Activity	Column 2 Maximum payment rate
1. In relation to the establishment of restoration of field boundaries–	£2 per metre
(a) establishment or restoration of hedgerows	
(b) (b) restoration of dry stone walls	£18 per square metre
(c) (c) restoration of stone-faced earth banks	£11 per square metre
(d) (d) restoration of earth banks which are not stone-faced	£3 per metre
(e) (e) erection or restoration of slate fences–	£18 per metre
(i) erection of a new slate fence	
(ii) resetting existing slates and rewiring	£10 per metre
(f) (f) additional work involved in importing stone from outside the farm boundary in order to repair stone walls	£7.50 per square metre
(g) (g) erection of post and wire fencing which is made of–	£1.25 per metre
(i) softwood	
(ii) hardwood	£1.50 per metre
(h) (h) installation of stock netting	£0.50 per metre

Column 1 Activity	Column 2 Maximum payment rate
(i) (i) installation of top wiring for stone walls	£0.60 per metre
(j) (j) installation of electric fencing	£1.00 per metre
(k) (k) installation of rabbit fencing which is made of–	£2.40 per metre
(i) softwood	
(ii) hardwood	£2.60 per metre
(l) (l) erection of post and rail fencing which is made of–	£9 per metre
(i) softwood	
(ii) hardwood	£11 per metre
(m) (m) installation of a gate which is made of–	£110 per gate
(i) softwood	
(ii) hardwood	£160 per gate
	Provided that no payment shall be made for work in relation to the establishment or restoration of field boundaries under this paragraph insofar as it relates to such work which exceeds 10 metres per hectare per agreement year per farm business and also that the total payments made in relation to work under subparagraphs (a) to (g) above shall not exceed £3,500 per farm business per agreement year.
2. In relation to ditch casting	£2 per metre
3. in relation to heather management–	£105 per hectare
(a) burning	
(b) (b) restoration by seed and mulch	£210 per hectare
4. In relation to tree planting and tree management–	£25 per tree
(a) pollarding of trees	
(b) (b) pruning and restoration of fruit trees	£10 per tree
(c) (c) supplying and planting of trees (other than orchard trees) and shrubs	£0.50 per tree or shrub
(d) (d) installation of tree shelters which are at least 1.8 metres high	£1 per shelter

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Column 1 Activity	Column 2 Maximum payment rate
(e) (e) installation of tree shelters which are more than 0.6 metres high but less than 1.8 metres high	£0.50 per shelter
(f) (f) planting of orchard trees together with guards and stakes	£12 per tree
(g) (g) installation of stock guards for parkland trees	£25 per guard
5. In relation to bracken	£50 per hectare
(a) removal or reduction of bracken by mechanical means	
(b) (b) removal or reduction of bracken by chemical means	£120 per hectare
(c) (c) removal or reduction of bracken by ground spraying	£55 per hectare
6. In relation to invasive plant species–	£1500 per hectare
(a) removal or reduction of rhododendrons outside woodland areas	
(b) (b) removal or reduction of other invasive plant species	£750 per hectare
7. In relation to scrub–	£150 per hectare
(a) removal or reduction of scrub by mechanical means	
(b) (b) removal or reduction of scrub by hand	£500 per hectare
8. In relation to–	£100 per hectare
(a) planting marram grass or reeds	
(b) (b) turf stripping for the creation of new habitats	£300 per hectare
(c) (c) provision of species-rich seeds mixture	£150 per hectare
(d) (d) treatment of eroded historic landscape sites	£7 per square metre
(e) (e) construction of hard surfacing for re-aligning tracks	£5 per square metre
9. In relation to water levels and features–	£3 per square metre of surface area up to and including 100 square metres of surface area, and £0.50 per square metre of surface area thereafter
(a) creation of a pond	
(b) (b) restoration of an existing pond	£2.25 per square metre

Column 1 Activity	Column 2 Maximum payment rate
(c) (c) installation of a soil bund or sluice	£35 per bund or sluice
(d) (d) installation of a timber bund or sluice	£140 per bund or sluice
(e) (e) installation of a culvert	£100 per culvert
(f) (f) construction of hard surfacing to alleviate sedimentation of water features	£5 per square metres
(g) (g) construction of hard surfacing for feeding pads to alleviate sedimentation	£100 per feeding pad
(h) (h) installation of a grazing marsh bridge	£100 per bridge
(i) (i) installation of a water gate	£25 per gate
10. In relation to the supply of water–	
(a) (a) installation of pipelines to supply water	£0.40 per metre
(b) (b) installation of a water trough	£100 per trough
11. In relation to agreement land to which public access is available–	£100 per gate
(a) installation of a bridle gate which is made of	
(i) softwood	
(ii) hardwood	£150 per gate
(b) (b) installation of a kissing gate which is made of–	£110 per gate
(i) softwood	
(ii) hardwood	£160 per gate
(c) (c) installation of a gate suitable for use by disabled people	£250 per gate
(d) (d) installation of a stone step stile or a through stile	£30 per stile
(e) (e) installation of a wooden stile	£34 per stile
(f) (f) installation of a ladder stile	£55 per stile
(g) (g) construction of a hard surfaced footpath which is 1 metre wide	£5.50 per metre
(h) (h) construction of a hard surfaced path 1.2 metres wide for use by disabled people	£9 per metre

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Column 1 Activity	Column 2 Maximum payment rate
(i) (i) construction of a hard surfaced bridleway 3 metres wide	£5.50 per metre
(j) (j) construction of a footbridge	£175 per footbridge
(k) (k) installation of a bench seat which is made of– (i) softwood	£30 per seat
(ii) hardwood	£40 per seat
(l) (l) installation of a post for signs, waymarks and boards which is made of– (i) softwood	£7 per post
(ii) hardwood	£10 per post
(m) (m) construction of hard standing for car parks	£5 per square metre
12. In relation to wildlife–	£20 per nest box
(a) installation of a barn owl nest box	
(b) (b) installation of a nest box other than a barn owl nest box	£5 per nest box
(c) (c) installation of a spiral rabbit guard	£0.30 per guard
(d) (d) installation of a badger gate	£20 per gate
(e) (e) installation of an otter holt	£80 per holt
13. In relation to restoring traditional farm buildings	50% of costs up to a maximum of £10,000 per farm business

SCHEDULE 5

Regulation 2(3)

Interpretation of Schedules

1. In Schedules 1 to 4–

“acid grassland” means a species poor type of grassland growing on an acidic soil, widespread in upland areas;

“arable land” means land used for the growing of cereals, root crops and brassicas;

“blanket bog” means an area with a type of species poor upland vegetation overlying a mantle of peat which completely smothers the underlying terrain, and where the water supply is derived entirely from rainfall;

“buffer zone” means a narrow strip of land located between a valued habitat and more intensively managed farmland, and which received no fertiliser, lime or pesticides;

“coastal grazing marsh” means a flat coastal area located behind sea defences or sand dunes, and comprising grassland which is sub-divided and drained by ditches holding standing water throughout the year;

“conventional crop” means a crop that has not been grown in accordance in the terms of a Tir Gofal agreement;

“ditch casting” means the practice of dredging out water filled ditches on a regular basis to promote the free flow of water and maintain a habitat for wildlife;

“enclosed” in relation to land means distinct parcels of land which are surrounded and separated by traditional field boundaries or fencing;

“felling licence” means a licence to fell trees granted by the Forestry Commissioners under section 9 of the Forestry Act 1967(11);

“floodplain grassland” means a flat area of land located adjacent to a river and comprising grassland which is sub-divided and drained by a network of ditches holding standing water throughout the year;

“grassland” means land on which the vegetation consists primarily of grass species;

“grazing land” means land used for the keeping of cattle, horses or sheep;

“grazed pasture” means grassland used for the grazing of cattle, horses or sheep;

“haymeadow” means grassland from which livestock is excluded for a sufficient period during the summer months for a crop of grass to be grown and from which grass is cut and baled in a traditional manner;

“heathland” means land on which there is a plant community with at least 25% cover of heathers, bilberry and western gorse, occurring in either lowland or upland areas;

“heathland vegetation” means a mixture of heathers, bilberry, western gorse, grasses, and herbs in which the dwarf shrubs cover at least 25% of the surface;

“high mountain heath” means land with a type of vegetation occurring on high altitude mountain ridges and summits, composed of heavily wind-pruned heather, bilberry or grasses, together with characteristic large lichens and mosses;

“improved” in relation to grassland means grassland which has been drained, fertilised, reseeded, or otherwise managed to improve its productive capacity, and which is characterised by a predominance of agricultural grasses;

“improved land” means improved grassland or arable land which has been modified by a combination of draining, ploughing, re-seeding, fertilising, liming or heavy grazing to improve its productive capacity;

“invasive plant species” means plants which have been introduced either intentionally or unintentionally to Wales by man and which have a tendency to spread rapidly unless controlled;

“limestone grassland” means a species rich type of grassland growing on lime rich soil, occurring both in upland and lowland areas;

“lowland heath” means a type of vegetation situated below the upper limit of agricultural enclosure and with a least a 25% cover of heathers and western gorse;

“marshy grassland” means damp grassland on peaty or mineral soils, composed predominantly of rushes, sedges, and characteristic wetland herbs and grasses;

“moorland” means land with an upland plant community composed of either heather or grasses or a mixture of both;

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“neutral grassland” means a type of species rich grassland growing on a soil intermediate in character between acidic and lime rich, usually occurring within isolated fields or small groups of fields;

“non-native species” in relation to plants or animals means plants or animals other than farm livestock or crops which have been introduced either intentionally or unintentionally into Wales by man;

“off farm wastes” means waste products from agricultural or industrial enterprises which are located outside the agreement land;

“parkland” means an area of scattered mature or ancient trees overlying pasture or arable land, often of particular landscape or historic significance;

“raised bog” means an area with a type of species poor wetland vegetation overlying a dome of peat developed within a lowland drainage basin, and where the water supply is derived entirely from rainfall;

“reedbed” means an area with a type of tall wetland vegetation characterised by a predominance of common reed;

“rough grass margins” means infrequently mown grass strips lying adjacent to cereal or root crops;

“saltmarsh” means an area of salt tolerant coastal vegetation which is regularly inundated by the tides;

“sand dune” means an area of coastal grassland or heathland overlying sand or sandy soil;

“scrub” means land dominated by shrubs which are usually less than 5 metres high, most commonly a combination of blackthorn, hawthorn and gorse;

“semi-improved grassland” means grassland with a relatively species poor type of vegetation composed of a mixture of agricultural and non-agricultural species, derived from unimproved acid, limestone or neutral grassland following regular applications of fertiliser, lime and heavy grazing;

“semi-natural broadleaved woodland” means land which has at least 30% cover of native trees which have generally not been planted and are at least 5 metres high;

“short turf” means an area of grassland maintained at a height of less than 15 centimetres by the action of grazing animals;

“slate fence” means a fence comprising pieces of slate hammered vertically into the ground in a line and attached to each other using a single strand of wire;

“species-rich fens” means areas with a type of wetland vegetation occurring on deep peat, and where the water supply is predominantly via ground water;

“spoil” means waste material thrown or brought up in excavating or dredging activities;

“stream-side corridors” means narrow strips of land adjacent to watercourses or other water bodies, fenced to exclude stock and allow for the regeneration of native vegetation;

“swamp” means an area with a type of tall wetland vegetation characterised by a mixture of plants including grasses, rushes, common reed and characteristic herbs;

“traditional field boundaries” means structures such as hedges, stone walls, earth banks and slate fences customarily used to create separate fields within a farm;

“uncropped fallow margins” means strips of annually cultivated land, no longer sown to cereals or roots, but located next to arable crops;

“unenclosed” in relation to land means extensive tracts of land that are open in character and where the only field boundaries are those along the perimeter;

“unimproved” in relation to grassland means grassland with a type of vegetation which has not been modified by agricultural activity, with the exception of light grazing and moderate applications of farmyard manure;

“upland heath” means land with a type of vegetation situated above the upper limit of agricultural enclosure with at least a 25% cover of heathers, bilberry and western gorse;

“water features” means areas of open water including ponds, lakes, streams and ditches;

“wetland” means an area of peaty or mineral soil with a permanently high water table, and which may be subject to frequent flooding in winter;

“wildlife cover crop” means a mixture of cereals, brassicas and other seed sources, sown to benefit a range of insects, birds and mammals living on arable land;

“winter stubbles” means the remains of a cereal or linseed crop following harvest, and which are retained through the winter period into early spring;

“Woodland Grant Scheme agreement” means an agreement which the Forestry Commissioners enter into to make grants pursuant to section 1 of the Forestry Act 1979⁽¹²⁾ for and in connection with the use and management of land for forestry purposes;

2. In Schedules 1 to 4—

- (a) any reference to a given unit of measurement includes (where appropriate to the circumstances) a reference to a fraction of that unit; and
- (b) where (in accordance with sub-paragraph (a) above) a reference to a given unit of measurement is a reference to a fraction thereof, any reference to a payment rate in relation to the given unit of measurement shall be adjusted in proportion to the fraction concerned.

SCHEDULE 6

Regulation 14

List of Statutory Instruments

The Habitat (Broadleaved Woodland) (Wales) Regulations 1994⁽¹³⁾

The Habitat (Water Fringe) (Wales) Regulations 1994⁽¹⁴⁾

The Habitat (Coastal Belt) (Wales) Regulations 1994⁽¹⁵⁾

The Habitat (Species-Rich Grassland) (Wales) Regulations 1994⁽¹⁶⁾

⁽¹²⁾ 1979 c. 21.

⁽¹³⁾ S.I. 1994/3099, amended by S.I. 1996/3075.

⁽¹⁴⁾ S.I. 1994/3100, amended by S.I. 1996/3073.

⁽¹⁵⁾ S.I. 1994/3101, amended by S.I. 1996/3074.

⁽¹⁶⁾ S.I. 1994/3102, amended by S.I. 1996/3072.

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to Wales, contain the provisions of a new agri-environment scheme implementing in part a zonal programme approved by the European Commission under Article 7 of Council Regulation (EEC) No. 2078/92 (OJ No. L215, 30.7.92, p. 85) on agricultural production methods compatible with the requirements for the protection of the environment and the maintenance of the countryside. The new agri-environment scheme, which replaces existing agri-environment schemes applying to Wales, is entitled the Land in Care Scheme or Tir Gofal (which Welsh term means land which is in the care of any person who has an interest in it).

The Regulations provide for payments of aid to be made at any time during or after the agreement year (regulation 6(1) and (2)) (payment of aid), to any person who enters a Tir Gofal agreement (as defined in regulation 2(1)) with the Countryside Council for Wales requiring him to follow the general environmental conditions set out in Schedule 1 and to carry out management and capital activities which are conducive to a specified purpose (as defined in regulation 2(1)) on land in which he has an interest (regulations 3 and 4). A Tir Gofal agreement may include a special project activity (as defined in regulation 2(1)).

The rates of aid payable are set out (regulation 9 and Schedules 1 to 4).

The Regulations also—

- (a) make provision in relation to a change of occupation to the land to which a Tir Gofal agreement relates (regulation 8);
- (b) impose an obligation on a Tir Gofal agreement holder to permit entry and inspection (regulation 10);
- (c) provide for the withholding and recovery of aid together with interest, the imposition of penalties and the termination of Tir Gofal agreements (regulations 11, 12 and 13);
- (d) provide for a closing date for applications for existing agri-environment schemes (regulations 14 and 15 and Schedule 6).

No regulatory appraisal has been prepared in respect of these Regulations.