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STATUTORY INSTRUMENTS

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**2003 No. 838**

**The Entry Level Agri-Environment  
Scheme (Pilot) (England) Regulations 2003**

**Title, commencement and application**

1. These Regulations may be cited as the Entry Level Agri-Environment Scheme (Pilot) (England) Regulations 2003, shall come into force on 18th April 2003 and shall apply to land in England.

**Interpretation**

2. In these Regulations—

“application” means an application to enter into an agreement with the Secretary of State and “applicant” shall be construed accordingly;

“beneficiary” means a person who has entered into an agreement with the Secretary of State;

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

“enclosed land” means land in an area of less than 15 hectares which is enclosed by a wall, fence or hedge;

“excluded land” means land which is registered as common land under the Commons Registration Act 1965<sup>(1)</sup> or which is subject to—

- (a) an agreement under the Countryside Stewardship Regulations 1998<sup>(2)</sup> or the Countryside Stewardship Regulations 2000<sup>(3)</sup>;
- (b) an agreement under section 18(3) of the Agriculture Act 1986<sup>(4)</sup> (an environmentally sensitive areas agreement);
- (c) an agreement under section 16 of the National Parks and Access to the Countryside Act 1949<sup>(5)</sup> or section 15 of the Countryside Act 1968<sup>(6)</sup> (agreements with English Nature);
- (d) a scheme under section 28J of the Wildlife and Countryside Act 1981<sup>(7)</sup> in respect of which a payment is made under section 28M(2) of that Act (management schemes for sites of special scientific interest);
- (e) an agreement under section 17 of the Ancient Monuments and Archaeological Areas Act 1979<sup>(8)</sup> (agreements to maintain ancient monuments); or

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(1) 1965 c. 64.

(2) S.I.1998/1327, amended by S.I. 1999/1177.

(3) S.I. 2000/3048, amended by S.I. 2001/3991.

(4) 1986 c. 49.

(5) 1949 c. 97.

(6) 1968 c. 41.

(7) 1981 c. 69. Sections 28J and 28M were inserted by section 75(1) of and Schedule 9 to the Countryside and Rights of Way Act 2000 (c. 37).

(8) 1979 c. 46.

- (f) an undertaking under the Organic Farming (Aid) Regulations 1994<sup>(9)</sup>, the Organic Farming Regulations 1999<sup>(10)</sup> or the Organic Farming (England Rural Development Programme) Regulations 2001<sup>(11)</sup>;

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

“less favoured area” means all the land shown coloured blue and pink on the three volumes of maps numbered 1 to 3, each volume being marked “Volume of maps of less-favoured farming areas in England”, dated 20th May 1991, signed and sealed by the Minister of Agriculture, Fisheries and Food and deposited at the offices of the Department for Environment, Food and Rural Affairs at Nobel House, 17 Smith Square, London SW1P 3JR;

“pilot area” means an area of land shown bounded by a blue line on a map contained in the volume of maps marked “Volume of maps of the four pilot areas for the Entry Level Agri-Environment Scheme Pilot”, dated 12th February 2003, signed on behalf of the Secretary of State and deposited at the offices of the Department for Environment, Food and Rural Affairs at Nobel House, 17 Smith Square, London SW1P 3JR;

“relevant area” means the whole of any single area of land in which the applicant has an interest, and, for the purpose of determining what is a single area, any field boundary, watercourse, road or railway shall be disregarded;

“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.

### **Applications**

3.—(1) An application—

- (a) may be made only in respect of a relevant area at least part of which is situated within a pilot area; and
- (b) shall be made in respect of all the land in a relevant area other than excluded land.

(2) An application shall be made at such time and in such form and shall contain or be accompanied by such information as the Secretary of State may require.

### **Power to enter into agreements**

4.—(1) The Secretary of State may enter into an agreement with an applicant where—

- (a) the Secretary of State is of the opinion that the carrying out by the applicant of any activity in relation to land which is the subject of the application would be conducive to either of the specified purposes; and
- (b) the points target relating to that land, calculated in accordance with regulation 5, is met or exceeded.

(2) For the purposes of paragraph (1), “agreement” means an agreement which remains in force for a specified period, provides for the activity in question to be carried out in relation to land which is the subject of the agreement and requires the Secretary of State to make a grant to the beneficiary in respect of the carrying out of that activity on the land.

<sup>(9)</sup> S.I. 1994/1712, amended by S.I. 1996/3109, S.I. 1998/1606 and S.I. 1999/590.

<sup>(10)</sup> S.I. 1999/590, amended by S.I. 1999/2735 and S.I. 1999/2933.

<sup>(11)</sup> S.I. 2001/432, amended by S.I. 2001/3139.

(3) Any agreement entered into under paragraph (1) shall be for a period of no more than 5 years.

### **Points target**

5.—(1) The points target shall be calculated at the following rates—

- (a) in relation to any land which is in a less favoured area, other than enclosed land, 15 points per hectare; and
- (b) in relation to all other land, 30 points per hectare.

(2) An applicant may obtain points in relation to the land which is the subject of an application as follows—

- (a) by making a record of the environmental features on that land, for which 5 points per hectare may be obtained; and
- (b) by undertaking to carry out on that land any of the activities listed in the first column of the Schedule, for which points may be obtained at the rates specified in the second column of the Schedule.

### **Conditions of grant**

6. A beneficiary's entitlement to receive payment of a grant at any time shall be subject to the following conditions—

- (a) that there has been no breach of any term of the agreement; and
- (b) that he has an interest in the land subject to the agreement.

### **Power to make payments of grant**

7. The Secretary of State may make payments of grant to a beneficiary at the following rates—

- (a) in relation to any land which is in a less favoured area, other than enclosed land, £15 per hectare per year; and
- (b) in relation to all other land, £30 per hectare per year.

### **Power to recover or withhold payments**

8.—(1) Where—

- (a) any information provided by the beneficiary is false or misleading in any material respect; or
- (b) there has been a breach of any term of the agreement,

the Secretary of State may exercise either of the powers contained in paragraph (2).

(2) The powers conferred by paragraph (1) are—

- (a) to withhold the whole or any part of the sums payable to the beneficiary; and
- (b) to recover on demand the whole or any part of the sums already paid to the beneficiary.

(3) Before exercising the powers contained in paragraph (2), the Secretary of State shall—

- (a) give the beneficiary a written explanation of the reasons for the step proposed to be taken;
- (b) invite the beneficiary to make written representations within such time as the Secretary of State considers reasonable; and
- (c) consider any such representations.

24th March 2003

*Michael Meacher*  
Minister of State,  
Department for Environment, Food and Rural  
Affairs

We consent,

24th March 2003

*John Heppell*  
*Jim Fitzpatrick*  
Two of the Lords of Her Majesty's Treasury