
STATUTORY INSTRUMENTS

2005 No. 621

The Environmental Stewardship (England) Regulations 2005

Citation, commencement and application

1. These Regulations may be cited as the Environmental Stewardship (England) Regulations 2005, shall come into force on 2nd April 2005 and shall apply to England only.

Interpretation

2. In these Regulations—

“agreement land” means land which is the subject of an environmental stewardship agreement;

“agreement year” means a period of 12 months commencing with the date of, or the anniversary of the date of, the coming into effect of an environmental stewardship agreement;

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

“carry out”, in relation to an obligation under an environmental stewardship agreement or a feasibility study agreement, includes ensuring that the obligation is carried out;

“Compendium of UK Organic Standards” means the Compendium of UK Organic Standards, May 2004 Edition, published by the Department for Environment, Food and Rural Affairs⁽¹⁾;

“conventional land” means agreement land which is not organic land;

“conversion grant” means a grant for converting land to production in accordance with organic standards;

“Council Regulation” means Council Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs⁽²⁾ as last amended by Commission Regulation (EC) No 2254/2004⁽³⁾;

“date of application” means the date on which an application to enter into an environmental stewardship agreement is received by the Secretary of State;

“ELS element” means obligations relating to ELS options;

“ELS options” means the options set out in column 1 of Part 2 of Schedule 2 for which a points value per unit is specified in column 2 of that Part of that Schedule;

“ELS points score” means the points score for conventional land calculated in accordance with paragraph 2 of Schedule 3;

“ELS points target” means the points target for conventional land calculated in accordance with paragraph 1 of Schedule 3;

“environmental stewardship agreement” has the meaning given to it in regulation 3(2);

“HLS capital works items” means the capital works items set out in column 1 of Parts 4 and 5 of Schedule 2;

(1) The Compendium of UK Organic Standards is available on the following website: <http://www.defra.gov.uk/farm/organic/legislation-standards/compendium-may04.pdf>.

(2) O.J. L 198, 22.07.1991, p. 124.

(3) O.J. L 385, 29.12.2004, p. 20.

“HLS element” means obligations relating to—

- (a) HLS options; or
- (b) HLS capital works items;

“HLS options” means the options set out in—

- (a) column 1 of Part 2 of Schedule 2 for which a maximum payment rate per agreement year is specified in column 4 of that Part of that Schedule; and
- (b) column 1 of Part 3 of Schedule 2.

“improved land” means land which has been ploughed or has received artificial fertilizer during the period of 20 years immediately before the date of application and which is not—

- (a) top fruit orchard; or
- (b) planted with mature trees or shrubs or planted to woodland or coppice, unless such land is used for grazing or keeping livestock;

“interest”, in relation to land, means—

- (a) a freehold interest;
- (b) a leasehold interest;
- (c) a licence to occupy; or
- (d) in relation to common land, a right to graze or to represent a person with such a right;

“less favoured area” means all the land shown coloured blue and pink in 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 Ergon House, 2 Horseferry Road, London SW1 2AL;

“OELS element” means obligations relating to OELS options;

“OELS options” means the options set out in column 1 of Part 2 of Schedule 2 for which a points value per unit is specified in column 3 of that Part of that Schedule;

“OELS points score” means the points score for organic land calculated in accordance with paragraph 5 of Schedule 3;

“OELS points target” means the points target for organic land calculated in accordance with paragraph 4 of Schedule 3;

“organic land” means agreement land which—

- (a) is registered with a private inspection body either as being in conversion to organic farming or as being fully organic; and
- (b) if it is situated within the less favoured area, comprises of, or is situated within, a parcel with an area of less than 15 hectares;

“organic standards” means the standards for organic production set out in the Council Regulation, as read with any additional provisions set out in the Compendium of UK Organic Standards;

“parcel” has the same meaning as “reference parcel” in Article 2(26) of Commission Regulation (EC) No 796/2004 laying down detailed rules for the implementation of cross compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers⁽⁴⁾;

(4) O.J. L 141, 30.04.2004, p.18.

“private inspection body” means a private inspection body approved by the Secretary of State for the purposes of Article 9(4) of the Council Regulation⁽⁵⁾;

“special project activity” has the meaning given to it by regulation 5(9)(a);

“special project element” means obligations relating to a special project activity;

“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,
- (b) the promotion of the enjoyment of the countryside by the public, or
- (c) the upkeep of the landscape and historical features on agricultural land;

“top fruit” means apples (excluding cider apple varieties), cherries, pears and plums.

Power to make grants

3.—(1) The Secretary of State may make a grant in accordance with these Regulations to a person who undertakes to do anything in relation to land in which that person has an interest which in the Secretary of State’s opinion is conducive to any of the specified purposes.

(2) Such a grant shall be made subject to the condition that the beneficiary complies with the conditions set out in an agreement (“an environmental stewardship agreement”) made between that person and the Secretary of State.

(3) The Secretary of State may vary the conditions of an environmental stewardship agreement—

- (a) by agreement with the beneficiary; or
- (b) by notice served on the beneficiary if the variation is, in the opinion of the Secretary of State, necessary to prevent a breach of a provision of, or made under, the Community Treaties⁽⁶⁾.

(4) The amount of the grant shall be calculated in accordance with regulations 6 and 7(4).

Applications for grant

4.—(1) An application for a grant shall—

- (a) include an application to enter into an environmental stewardship agreement with the Secretary of State; and
- (b) be made at such times, in such form and be accompanied by such information, as the Secretary of State requires.

(2) An application to enter into an environmental stewardship agreement containing an HLS element must be accompanied by a plan (“a farm environment plan”), in such form as the Secretary of State requires, identifying the features of environmental significance on the relevant land.

(3) Subject to paragraph (4), in paragraph (2) and Schedule 1 relevant land means land—

- (a) which—
 - (i) is farmed by the applicant as a single farming business; or
 - (ii) would have been farmed as a single farming business but is instead farmed by the applicant as two or more farming businesses in order to comply with the requirement of the second paragraph of Part A of Annex III of the Council Regulation (which

⁽⁵⁾ Regulation 3(1) of the Organic Products Regulations 2004 (S.I. 2004/1604) designates the Secretary of State as the competent authority for the purposes of Article 9(4) of the Council Regulation.

⁽⁶⁾ “The Community Treaties” is defined in s.1(2) of the European Communities Act 1972 (c. 68).

- provides that production in accordance with organic standards must be clearly separated from production which is not in accordance with such standards);
- and which includes the land which is the subject of the application to enter into an environmental stewardship agreement with an HLS element; and
- (b) which is registered on the Rural Land Register held by the Rural Payments Agency, an executive agency of the Department for Environment, Food and Rural Affairs; and
- (c) in relation to which the applicant, either—
- (i) alone, or
 - (ii) with a person who countersigns the application,
- has, on the date of the application, the right, for at least five years from that date, to carry out activities of the type required by HLS options.

(4) In paragraph (2), where the land which is the subject of the application forms all or part of a common, the relevant land is the land comprising the entire common.

(5) The Secretary of State shall make a grant (“a farm environment plan grant”) to an applicant in respect of a farm environment plan if the plan and the associated application to enter into an environmental stewardship agreement are in such form as the Secretary of State requires.

(6) The amount of a farm environment plan grant shall be calculated in accordance with Schedule 1.

Conditions of environmental stewardship agreements

5.—(1) An environmental stewardship agreement must contain one (and may contain more than one) of the following elements—

- (a) an ELS element;
- (b) an OELS element;
- (c) an HLS element;
- (d) a special project element.

(2) An environmental stewardship agreement which contains an ELS element must include an undertaking by the beneficiary to carry out on the conventional land, for the duration of the agreement, sufficient ELS options to obtain an ELS points score equal to or greater than the ELS points target in relation to that land.

(3) An environmental stewardship agreement which contains an OELS element must include an undertaking by the beneficiary to carry out on the organic land, for the duration of the agreement, sufficient OELS options to obtain an OELS points score equal to or greater than the OELS points target in relation to that land.

(4) An environmental stewardship agreement which contains an HLS element must include an undertaking by the beneficiary to carry out on the agreement land, for the duration of the agreement, at least one HLS option.

(5) An environmental stewardship agreement which contains an HLS element must also specify—

- (a) the payment rate for each HLS option included in the agreement;
- (b) the payment rate for each HLS capital works item listed in column 1 of Part 4 of Schedule 2 included in the agreement; and
- (c) the percentage of the cost payable for each HLS capital works item listed in column 1 of Part 5 of Schedule 2 included in the agreement.

(6) The payment rate referred to in paragraph (5)(a) must not exceed the maximum payment rate per agreement year specified for that HLS option in column 4 of Part 2, or column 2 of Part 3, of Schedule 2 (as the case may be).

(7) The payment rate referred to in paragraph (5)(b) must not exceed the maximum payment rate specified for that HLS capital works item in column 2 of Part 4 of Schedule 2.

(8) The percentage referred to in paragraph (5)(c) must not exceed the maximum percentage of cost specified for that HLS capital works item in column 2 of Part 5 of Schedule 2.

(9) An environmental stewardship agreement which contains a special project element must—

- (a) include an undertaking by the beneficiary to carry out on the agreement land any activity (“a special project activity”) which, in the Secretary of State’s opinion, would better, or more fully achieve, the specified purposes than an ELS option, an OELS option, an HLS option or an HLS capital works item (or more than one such option or capital works item);
- (b) specify the payment rate or the amount of grant for each special project activity included in such agreement.

(10) The payment rate or the amount of grant referred to in paragraph (9)(b) must not exceed 120% of the sum of—

- (a) the loss of income suffered, and
- (b) the additional costs incurred

as a result of carrying out such activity.

Amount of grants

6. The amount of a grant payable by the Secretary of State pursuant to regulation 3 shall be determined in relation to—

- (a) an ELS element of an environmental stewardship agreement, in accordance with paragraph 3 of Schedule 3;
- (b) an OELS element of an environmental stewardship agreement, in accordance with paragraph 6 of Schedule 3;
- (c) an HLS element of an environmental stewardship agreement, in accordance with paragraph 7 of Schedule 3; and
- (d) a special project element of an environmental stewardship agreement, in accordance with paragraph 8 of Schedule 3.

Conversion grants for organic land

7.—(1) The Secretary of State may only make a grant which is a conversion grant—

- (a) in respect of eligible land; and
- (b) where the beneficiary agrees to comply with the conditions set out in an environmental stewardship agreement which contains an OELS element.

(2) In paragraph (1), eligible land means land which meets the conditions specified in paragraph (3) and is—

- (a) improved land; or
- (b) top fruit orchard which—
 - (i) has a total area of least 0.5 hectares; and
 - (ii) is planted with at least 80 top fruit trees per hectare.

(3) The conditions mentioned in paragraph (2) are that the land must—

- (a) on the date of application, be registered with a private inspection body as being in its first year of conversion to organic production; and
 - (b) at no time during the period beginning on 10th August 1993 and ending immediately before the date of the agreement, have been registered with a private inspection body as being in conversion to organic production or fully organic (or both).
- (4) The amount of a conversion grant shall be calculated in accordance with Schedule 4.

Feasibility study agreements

8.—(1) The Secretary of State may make a grant (“a feasibility study grant”) to a person who undertakes to carry out a detailed study of land in which that person has an interest which, in the Secretary of State’s opinion, is conducive to any of the specified purposes.

(2) A feasibility study grant shall be made subject to the condition that the beneficiary complies with the conditions set out in an agreement (“a feasibility study agreement”) made between that person and the Secretary of State.

(3) An application to enter into a feasibility study agreement shall be made at such times, in such form and be accompanied by such information, as the Secretary of State requires.

- (4) The amount of a feasibility study grant shall not exceed the sum of—
- (a) the loss of income suffered, and
 - (b) the additional costs incurred

as a result of complying with the conditions of the feasibility study agreement to which such grant relates.

Amendment of the England Rural Development Programme (Enforcement) Regulations

9. The England Rural Development Programme (Enforcement) Regulations 2000(7) shall be amended by adding to Part I of the Schedule, after the words “The Environmentally Sensitive Areas (Stage IV) Order 2000”, the following—

“The Environmental Stewardship (England) Regulations 2005”.

Revocation

10.—(1) Subject to paragraph (2), the Organic Farming (England Rural Development Programme) Regulations 2003(8) (“the 2003 Regulations”) are hereby revoked.

(2) The 2003 Regulations shall continue to apply in relation to any application for a grant under those Regulations which was received before the date on which these Regulations come into force.

Elliot Morley
Minister of State
Department for Environment, Food and Rural
Affairs

27th February 2005

(7) S.I. 2000/3044; the relevant amending instrument is S.I. 2001/431.

(8) S.I. 2003/1235.

We consent,

8th March 2005

Nick Ainger
Gillian Merron
Two of the Lords Commissioners of Her
Majesty's Treasury