

# Set-aside Handbook and Guidance for England

2006 edition

# Key dates

## 2006

1 January	Start of the Single Payment Scheme (SPS) year. From this date you must comply with all applicable cross compliance conditions.
15 January	Start of the set-aside period. You must not harvest any crops remaining in the ground or graze the land.
1 March – 15 July	Avoid operations on set-aside land in this period as you could harm nesting birds and other wildlife. If action is essential, take steps to minimise the disturbance to wildlife.
15 April	Earliest date on which you can use non-selective herbicides on set-aside land.
30 April	Final date on which the 10-month periods for having land at your disposal can begin if you are claiming payment under the SPS in 2006.
1 May	Earliest date on which you may begin to cultivate organic fields in set-aside for weed control.
15 May	Closing date for applications to the SPS.
15 July	Sowing for harvest in 2007 permitted on set-aside land.
15 July – 15 or 31 August	Compulsory cut (until 15 August) or destruction (until 31 August) of green cover on set-aside land.
31 August	End of the set-aside period.
1 October	Earliest date on which the 10-month periods for having land at your disposal can begin for the 2007 scheme year.
31 December	End of the SPS year.

## 2007

1 January	Start of the SPS year.
15 January	Start of new set-aside period.

**Key changes for 2006 – see paragraph 6**

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# Contents

	Page no.
<b>A</b>	
<b>Introduction</b>	5
Background	5
Key changes for 2006	5
Important notes on the law	6
<b>B</b>	
<b>Set-aside under the Single Payment Scheme</b>	7
Set-aside	7
Land voluntarily taken out of production	7
Claiming or 'activating' set-aside entitlements	7
Land eligible for set-aside	8
Land ineligible for set-aside	8
<i>Permanent crops</i>	8
<i>Permanent pasture</i>	9
Land in agri-environment, woodland and energy crops schemes	9
<i>Land in agri-environment schemes</i>	9
<i>Environmental Stewardship</i>	10
<i>Pilot Entry Level Scheme</i>	11
<i>Land in woodland schemes under the England Rural Development Programme (ERDP)</i>	11
<i>Land in the Energy Crops Scheme under the ERDP</i>	11
Land in multi-annual set-aside agreements	11
Special rules for organic farmers	12
<b>C</b>	
<b>How much land to set aside</b>	13
How much land to set aside in 2006	13
How much land to set aside in 2007	13
Transferring set-aside entitlements to another farmer	14
Insufficient land to meet your set-aside obligation	14
Completing the SPS application form	14

## D

---

<b>Selecting land to set aside</b>	15
Introduction	15
Plot sizes and set-aside strips	15
Field margins and headlands	15
Rotating set-aside land	16
Switching eligibility for set-aside	16

## E

---

<b>Managing set-aside land</b>	17
Introduction	17
Establishing a green cover	17
<i>Sown green cover</i>	18
<i>Wild bird cover</i>	18
<i>Natural regeneration after crops</i>	19
<i>Circumstances under which you do not need to establish a green cover</i>	19
Maintaining and managing the green cover	20
<i>Weed and volunteer control</i>	20
<i>Cutting and destroying the green cover</i>	22
<i>Exemption from the cutting/destruction requirement</i>	22
<i>Replacing a green cover</i>	23
<i>Cultivation</i>	23
<i>Fertilisers, manures and wastes</i>	23
<i>Vehicle access</i>	24
Alternative management plans	24
Exemptions from the set-aside management rules	24

## F

---

<b>Use of set-aside land</b>	26
Prohibited uses	26
Permitted uses of land during the set-aside period	26
<i>Non-agricultural use of set-aside land</i>	27
Uses of land after the end of the set-aside period	27

## G

---

<b>Growing crops for non-food uses on set-aside land</b>	28
Introduction	28
Set-aside management rules	28
Crops with no food or animal feed use	29
Growing crops with food or animal feed uses for specific end products	29
<i>Permitted end uses</i>	30
The contract	30
<i>Amendment of the contract</i>	31
<i>Reductions of area under contract</i>	31
<i>Inability to meet representative yield</i>	31
<i>Harvest</i>	31
<i>After delivery</i>	32
<i>Payment</i>	32
<i>Reductions under the contract</i>	32
Crops for on-farm energy use	32

## H

---

<b>Penalties relating to set-aside land</b>	33
---	----

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### Appendices

Appendix 1 Crops that may be grown on set-aside land without a contract provided they are intended for the manufacture of the products listed in Appendix 2	34
Appendix 2 End products that may be produced from crops grown on set-aside land, other than for human or animal consumption	35
Appendix 3 Special rules for hemp grown on set-aside land	36
Appendix 4 Determining whether your land is permanent pasture	37
Appendix 5 Glossary	38

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<b>Further information</b>	40
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# A Introduction

## Background

1. This handbook explains the rules concerning set-aside under the Single Payment Scheme (SPS) – how much and what type of land you should set aside and how you should manage it to qualify for payment. **It replaces the *Set-aside Handbook and Guidance for England 2005 edition*.**
2. The SPS replaced most crop and livestock schemes on 1 January 2005. Entitlement to aid no longer depends on you growing crops or keeping livestock. To qualify for payment under the SPS, you must:
  - hold and activate payment entitlements;
  - claim set-aside entitlements (if you hold them) before other entitlements;
  - set aside the correct amount of land against set-aside entitlements; and
  - meet cross compliance requirements on all the agricultural land on your holding, including set-aside.
3. For each hectare of eligible land you declared for the establishment of entitlements on your 2005 SPS application form, you will receive an entitlement to claim payment under the SPS.
4. If you entered arable land into the SPS, a proportion of the payment entitlements you are allocated may be designated set-aside entitlements. For every set-aside entitlement you hold, you must correctly set aside an equivalent area of arable land (for exemptions see paragraph 36).
5. You can only use (activate) set-aside entitlements to claim payment on land you manage as set-aside in accordance with the rules referred to in this Handbook.

## Key changes for 2006

6. Please note the following key changes since the 2005 Handbook:
  - Individual organic fields managed as set-aside can be cultivated from the beginning of May for weed control (see paragraph 92).
  - Land growing certain permanent crops is eligible for set-aside (see paragraph 19).
  - Grazing is now permitted on land set aside **after** the end of the set-aside period where you have replaced your green cover before 15 July (see paragraph 116).
  - In most cases you will not need to recalculate the amount of land you are obliged to set aside in 2006 (see Section C for details).

## Important notes on the law

7. The rules in this Handbook are based on Council Regulation (EC) No. 1782/2003 as amended, Commission Regulations (EC) Nos. 795/2004, 796/2004 and 1973/2004 (all as amended) as well as relevant domestic legislation, in particular The Common Agricultural Policy Single Payment Scheme (Set-aside) (England) Regulations 2004 No. 3385 (as amended).
8. This Handbook does not take the place of the law. You are referred to the EC and domestic regulations for the precise legal provisions. In addition, this Handbook does not give a definitive interpretation of the law. This can only be given by the courts.

## B Set-aside under the Single Payment Scheme

### Set-aside

9. To set aside means to:
  - withdraw land eligible for set-aside from agricultural production for the duration of the set-aside period, 15 January to 31 August of the scheme year; and
  - manage the land in accordance with the set-aside management rules described in Section E in addition to the requirements of cross compliance.
10. You may, however, grow crops for non-food or feed uses for specific end products on set-aside land as described in Section G. Guidance on the amount of land you should set aside is in Section C.

### Land voluntarily taken out of production

11. You may withdraw from production as much land as you wish, provided you meet your set-aside obligation. Any extra land withdrawn in this way **must** be managed according to the requirements of cross compliance, in particular Good Agricultural and Environmental Condition (GAEC) 12, Eligible land which is not in agricultural production (see *Cross Compliance Handbook for England 2006 edition*).

### Claiming or activating set-aside entitlements

12. If you are required to have set-aside, you must claim set-aside entitlements before any other entitlements. This means that you must fulfil your set-aside obligation in its entirety each year if you wish to activate any other entitlements on the remainder of your holding. For 2006 however, you must set aside the same amount of land that you were required to in 2005 (see Section C for details). See paragraph 46 if you do not have enough land eligible for set-aside on your holding to support the number of set-aside entitlements you have.
13. If inspections or administrative controls find that you did not set aside a number of hectares (ha) equivalent to the number of set-aside entitlements you are allocated, your payment will be reduced and you may not receive any payment under the SPS at all.

## Land eligible for set-aside

14. Land is eligible for set-aside in 2006 if:

- it is arable land on 15 January 2006; and
- it is not ineligible because of its use on 15 May 2003 (see paragraph 17).

Some land not meeting these requirements may also be eligible if it is:

- in an agri-environment scheme (see paragraphs 23-31);
  - in a woodland scheme (see paragraph 32); or
  - growing permanent crops (see paragraph 19).
15. Land in grass being used for set-aside (including long-term set-aside), is classified as arable land. If this land ceases to be set aside, but remains in grass, it will be reclassified as permanent pasture after five years (see paragraphs 21-22).
16. **Full descriptions of arable land, permanent pasture and permanent crops under the SPS appear in the Glossary in Appendix 5.**

## Land ineligible for set-aside

17. Land cannot be set aside if, on 15 May 2003, it was:

- in permanent crops or nurseries of permanent crops, including Christmas trees and hardy ornamental nursery stock (but see paragraph 19);
- used for peat extraction;
- permanent pasture (but see paragraphs 21-22);
- forest; or
- in non-agricultural use.

18. Land that was not considered arable on 15 May 2003 but has since been brought into arable production **cannot** be used as set-aside (unless it falls under paragraph 25).

### *Permanent crops*

19. Permanent crops are defined in the Glossary at Appendix 5. Land growing permanent crops cannot be used as set-aside **unless** it was planted for non-food crop purposes and was in set-aside on 15 May 2003 under the Arable Area Payments Scheme. However, this land **also** needs to be 'eligible for set-aside' in the current scheme year to be counted as set-aside.
20. Hops are classified as a permanent crop, and land growing hops is not considered arable land.

### *Permanent pasture*

21. Permanent pasture is land used to grow grasses or other herbaceous forage (see Glossary at Appendix 5), either naturally (self-seeded) or through cultivation (sown), and that is not included in the crop rotation of the holding for five years or longer. However, see paragraph 24 for the limited circumstances where this rule does not apply.
22. Appendix 4 provides further guidance on determining whether your land is permanent pasture.

## Land in agri-environment, woodland and energy crops schemes

### *Land in agri-environment schemes (other than Environmental Stewardship and Pilot Entry Level Stewardship)*

23. Participation in agri-environment schemes does not normally affect the eligibility of land for payment under the SPS. Land in the following agri-environment schemes which meets the SPS description of arable land can be set-aside:
  - Countryside Stewardship Scheme;
  - Environmentally Sensitive Areas (ESA);
  - Organic Farming Scheme;
  - Organic Aid Scheme;
  - Arable Stewardship Scheme; and
  - Habitat Scheme.
24. Land taken out of production under the following agri-environment scheme options is **not** permanent pasture, even if it meets the permanent pasture criteria above:
  - Countryside Stewardship – R3 (6 metre margin), R7 (2 metre grass margin), R8 (2 metre beetle banks), WM2 (pollen and nectar source);
  - Arable Stewardship – 4A (4 metre to 12 metre grass margins), 4B (beetle banks), 5 (wildlife seed mixtures, pollen and nectar source);
  - ESA – The Broads Tier 4B, Upper Thames Tributaries Tier 3C; and
  - Habitat Scheme – 1B.
25. Land in an agri-environment scheme that does not meet the definition of arable land may be used for set-aside, **provided** all the following conditions are met:
  - The land is under an agri-environment scheme listed in paragraph 23;
  - The application to join the agri-environment scheme was made after 28 June 1995;
  - The land is not put to any lucrative use (other than that allowed under SPS rules).

26. However, it is important to be aware that using land which is subject to an agri-environment agreement to meet your set-aside requirements could in some circumstances constitute a breach of your agri-environment commitments if you cannot carry out the management of the land as required under your agri-environment agreement. This could result in your agri-environment scheme payment being reduced to zero.
27. The main exception is the ESA scheme 'all land' tier where you can claim both payments. For further advice on the effect on your payments of using land in agri-environment schemes to meet set-aside requirements, please contact your Rural Development Service (RDS) adviser.
28. If you transfer from one of the agri-environment schemes to Environmental Stewardship, the rules about use of land for set-aside are different (see paragraph 29).

### ***Environmental Stewardship***

29. Environmental Stewardship options may not be located on set-aside land except as follows:
  - Organic Entry Level Scheme (OELS) options OU1 and management plans OM1, OM2 and OM3;
  - OELS options OB1, OB2, OB3, OB6, OB7, OB8, OB9 and OB10 – all options that incorporate uncultivated land as part of hedge and/or ditch management requirements;
  - Entry Level Scheme (ELS) option EF3 – wild bird seed mixture on set-aside land;
  - ELS option EF5 – pollen and nectar flower mixture on set-aside land;
  - ELS options EM1, EM2, EM3 and EM4 – all management plans;
  - ELS options EB1, EB2, EB3, EB6, EB7, EB8, EB9 and EB10 – all options that incorporate uncultivated land as part of hedge and/or ditch management requirements; or
  - Higher Level Scheme (HLS) options HF16 and HF17 – cultivated fallow plots for arable flora and ground nesting birds.
30. Locating set-aside on land in other environmental scheme options could result in your agri-environment scheme payments being reduced to zero, or even being recovered.

### ***Pilot Entry Level Scheme***

31. You may use arable land in a PELS option for set-aside, but if you do, the corresponding option points will be lost and you will be required to regain those points elsewhere on your agreement land. For further information contact your local RDS office.

### ***Land in woodland schemes under the England Rural Development Programme (ERDP)***

32. Land categorised as woodland is not normally eligible for payment under the SPS. However, land converted to woodland under the following schemes:
- Farm Woodland Premium Scheme (FWPS);
  - Woodland Grant Scheme (WGS); and
  - English Woodland Grant Scheme (EWGS)
- may be used as set-aside provided:
- the land was in agricultural use immediately prior to being entered into the scheme;
  - the application to join the woodland scheme was made after 28 June 1995; and
  - the land is not put to any lucrative use (other than that allowed under SPS rules).
33. It is important to be aware that, if you use eligible land in a woodland scheme to meet your set-aside requirements, the income foregone element of your woodland scheme payment (i.e. your FWPS payment or your EWGS Farm Woodland Payment) will be reduced to reflect the fact that you will be receiving an SPS set-aside payment in respect of the land concerned.

### ***Land in the Energy Crops Scheme under the ERDP***

34. Land in the Energy Crops Scheme may also form part of an SPS claim but can only be used as set-aside if it falls under the exception in paragraph 19.

### ***Land in multi-annual set-aside agreements***

35. You cannot enter land into a new multi-annual set-aside agreement. However, existing agreements will continue subject to the original rules and conditions. If you are a multi-annual set-aside agreement holder contact RPA if you need advice on your options under the SPS.

## Special rules for organic farmers

36. You will be allocated set-aside entitlements but will not have to set land aside in 2006 if all the following requirements are met:
- you are an organic farmer, or in organic conversion;
  - your entire holding is managed for the totality of its production in accordance with Regulation (EEC) No. 2092/91; and
  - all the productive land on your holding is registered by 15 January 2006 with a recognised organic inspection body.
37. This exemption from the requirement to set aside land only applies to the area of land you were obliged to set aside in 2005. It does not apply to any additional set-aside entitlements you obtain by transfer or lease unless:
- they are transferred with land; and
  - you continue to meet all the requirements in paragraph 36 above.

## C How much land to set aside

### How much land to set aside in 2006

38. **For 2006, you should set aside the same number of hectares of land that you were required to in 2005.** This requirement will not usually be affected by any change in the area of land that you farm between 2005 and 2006.
39. Although you will not usually need to change your calculation from 2005 there are two circumstances where you may have to. These are:
  - if you have transferred entitlements; or
  - if you took advantage of the change in eligibility rules of permanent crops and set-aside land.
40. The requirement to set aside the same area of land as in 2005 relates to the number of hectares that you were **obliged** to set aside in 2005. This excludes any additional land that you voluntarily took out of production and managed to meet the cross compliance GAEC 12 standard.
41. If you transfer set-aside entitlements in time for the 2006 scheme year (notifying the transfer to RPA by 2 April 2006, in time to take effect by 15 May 2006), we will adjust your 2006 obligation by adding or subtracting the equivalent number of hectares from your basic 2005 set-aside obligation.
42. If you are allocated set-aside entitlements in more than one English area, you must set aside an equivalent amount of land in those areas. If you are allocated set-aside entitlements in more than one UK region, you must set aside the equivalent amount of land in those regions and follow the appropriate set-aside management conditions for those regions.

### How much land to set aside in 2007

43. For 2007, your set-aside obligation will be determined by the number of set-aside entitlements you hold on 15 May 2007. This will be based upon the number of set-aside entitlements you are allocated when entitlements are definitively established, adjusted to take account of:
  - any transfers of set-aside entitlements that you have undertaken; and
  - any amendments made due to the changes to eligibility rules of permanent crops and set-aside land.

## Transferring set-aside entitlements to another farmer

44. Once entitlements have been definitively established, set-aside entitlements will be transferable in the same way as normal ones, i.e. by sale or gift with or without land, leased with land or by inheritance. Further information is available in the *Single Payment Scheme Information for farmers and growers October 2005 update*. This guidance will be updated in the *Single Payment Scheme Handbook and Guidance for England 2006 edition* that will be distributed with the 2006 SPS application form.
45. If you transfer in set-aside entitlements during the set-aside period and wish to activate them, you must ensure that you have sufficient land managed as set-aside from 15 January to meet your obligations under the scheme.

## Insufficient land to meet your set-aside obligation

46. If you no longer have enough land eligible for set-aside (see paragraph 14) to meet your set-aside obligation in full for a particular scheme year, you must activate as many set-aside entitlements as your land eligible for set-aside will support. You can then go on to activate your normal entitlements for payment without incurring a penalty.
47. You will not be paid on any unactivated set-aside entitlements and if those set-aside entitlements are not claimed on within a period of three years they will revert to the National Reserve.

## Completing the SPS application form

48. Crop code SA1 should be used for all set-aside on your SPS application forms unless it is a specialised form of set-aside such as non-food set-aside or multi-annual set-aside for which there are separate codes. These will be published in the *Single Payment Scheme Handbook and Guidance for England 2006 edition* that will be distributed with the 2006 SPS application form.

## D Selecting land to set aside

### Introduction

49. Selecting appropriate land to set aside means you can use it to meet agronomic objectives, benefit wildlife and protect archaeological features.
50. Factors to consider include:
  - whether you keep set-aside on the same land or rotate it;
  - where you position set-aside land;
  - the cover you choose; and
  - how you will manage set-aside land.

### Plot sizes and set-aside strips

51. Set-aside can be a single plot or a number of smaller plots or strips although it can only count as a single plot if it is all within one field and you can walk from any point to every other point without leaving set-aside land.
52. A single plot of set-aside land must normally be no smaller than 0.1 ha and at least 10 metres wide. However, set-aside land directly alongside watercourses, hedgerows, woods and Sites of Special Scientific Interest (SSSIs) may be put into strips between 6 metres and 10 metres wide and no smaller than 0.05 ha. You can have a set-aside strip that mixes 6 metre and 10 metre minimum widths in the same field, as long as the sections that are between 6 metres and 10 metres wide are alongside a watercourse, hedgerow, wood or SSSI. Set-aside strips alongside a boundary will normally be measured from the centre of that boundary.
53. Watercourses include all surface waters such as estuaries, lakes, ponds, rivers, streams, canals and field ditches. A ditch must carry water at some time during the year. It does not have to have a continuous flow of water.
54. Public rights of way which cross a set-aside area can be counted towards your set-aside obligation but you should only use such land as set-aside if it meets the definition of land eligible for set-aside and you are able to comply with the set-aside management conditions on it.

### Field margins and headlands

55. The 2 metre margin required to meet the GAEC 14 cross compliance requirement in fields larger than 2 ha may be included within set-aside strips and in such cases will be subject to the set-aside management conditions. For further information see the *Cross Compliance Handbook for England 2006 edition*.

### **Environmental advice to consider**

Setting aside field margins and headlands offers considerable agronomic and environmental advantages. It minimises the disturbance to existing farming patterns and can be used to square up irregular fields. It can also extend and link existing habitats such as overgrown hedgerows and small woodlands, or provide new ones, for example rough uncultivated strips which are vital hunting grounds for barn owls. Setting aside field margins also allows easier access to maintain features such as hedgerows and ditches.

## **Rotating set-aside land**

56. You can choose whether or not to rotate set-aside land and can treat different fields or parcels of land within fields differently.

### **Environmental advice to consider**

Leaving set-aside in one place can benefit existing wildlife habitats and lead to the creation of new ones. It also means you can avoid agricultural operations on the land at times when wildlife may be disturbed and helps reduce levels of nitrate leaching.

Moving set-aside can also offer benefits, particularly if it follows cereals and the stubble is allowed to regenerate over the winter to provide feeding grounds for birds. With appropriate management, annual arable plants can be encouraged. Rotation can also be an effective break to reduce the populations of the more difficult weeds and to combat diseases.

## **Switching eligibility for set-aside**

57. If, for reasons beyond your control, land you would otherwise have been able to use as set-aside on your holding is no longer available (for example as a result of compulsory purchase or statutory intervention) you may apply to have the eligibility for set-aside switched to other land on your holding that is otherwise ineligible. Applications must be made in writing to the RPA Customer Service Centre (see page 40).

## E Managing set-aside land

### Introduction

58. If you are claiming payment under the SPS, all the agricultural land on your holding, including set-aside, must be managed in accordance with the requirements of cross compliance, including the standards of GAEC and any Statutory Management Requirements (SMRs) that apply, as described in the *Cross Compliance Handbook for England 2006 edition*.
59. In addition, there are specific management requirements (which form part of GAEC) that apply to set-aside land which are laid out in this Handbook.
60. Failure to meet the requirements of GAEC and the SMRs, or the management requirements applying specifically to set-aside land may result in a penalty under the rules of cross compliance.
61. If your 10-month period for having land at your disposal begins after the start of the set-aside period, the land you set aside must nevertheless be managed according to these requirements from 15 January 2006.

### Establishing a green cover

62. You must normally establish and maintain a green cover on set-aside land by the start of the set-aside period. You can do this by:
  - sowing grass, grass mixtures, or another acceptable cover;
  - sowing wild bird cover; or
  - allowing natural regeneration.
63. If you have land already in set-aside with an acceptable green cover or temporary grass on land eligible for set-aside, you may leave these covers in place. However, if you are setting aside 6 metre to 10 metre strips, you must establish a green cover on those strips by sowing (and not natural regeneration) if there is insufficient green cover there already.
64. Green cover must be maintained from 15 January until 31 August but must either be cut between 15 July and 15 August or destroyed between 15 July and 31 August.
65. Green cover may not be used for seed production nor may it be used for any agricultural purposes before 31 August. Crops grown on the land cannot be marketed if they are harvested before 15 January 2007.
66. The circumstances in which you may be exempt from establishing a green cover are described in paragraphs 73-76.

### *Sown green cover*

67. A sown green cover should normally be established by undersowing the previous crop or by sowing in autumn after harvest of the previous crop and may be:
- grass;
  - a mixture of grass seed and seed of native broad-leaved plants not commonly used for agricultural production (this mixture must not contain more than 50% by weight of legume seed);
  - mustard (other than mustard grown for seed or grain); or
  - Phacelia.

#### **Environmental advice to consider**

Fields to be set aside for more than one season and which have a long history of intensive management (i.e. high nutrient and pesticide input) are probably best sown to grass. This can help to control weeds and, over a period of years, can be cheaper to maintain than a naturally regenerated cover.

### *Wild bird cover*

68. Wild bird cover must be an unharvestable mixture of at least two crop groups, for example cereals and brassicas. The mixture you choose must be such that it is not practicable to harvest the components separately nor can it be one that is normally grown for agricultural or horticultural production. A mixture of cereals and grass, for example, would not be acceptable. Legumes may only be included as a third component of the mixture.
69. The seed must be sown as a mixture – you cannot for example sow alternate rows of each seed. Crops must be sown and maintained so that no one group predominates. If one part of the mixture becomes predominant, you must inform RPA and reinstate the mixture by replacing either the lost components or the whole mixture as soon as possible. Normally, we would expect all components of the mixture to be re-established using a seed drill.
70. If it is found that the cover is not an unharvestable mixture, the area of set-aside will be considered to be in agricultural production and you will not be able to use this land as set-aside.
71. If you destroy natural regeneration to establish your wild bird cover, you should follow the rules in paragraph 91 on replacing a green cover. You are not required to cut the cover provided you follow the rules in paragraph 88.

### **Environmental advice to consider**

Wild bird cover is generally best established in the spring following the development of natural regeneration over winter and then left in place for at least two years. It may be left in place indefinitely, although you may destroy it after one year if you need to.

If you decide to leave the cover in place for more than one year, you should leave it to reseed itself in the autumn. You should not cut it, although you may disc or lightly cultivate the soil to aid establishment. In this case, you must take particular care to ensure that the cover remains an unharvestable mix, as it may not be until into the second year that it becomes apparent that one component of the mix has deteriorated.

### ***Natural regeneration after crops***

72. Natural regeneration is permitted after any crop including herbage seed, but if you do allow regeneration after herbage seed you must not take a further seed crop off the grass.

### **Advice on natural regeneration**

Natural regeneration can lead to a variety of plants and can provide feeding grounds for birds. In particular, natural regeneration after cereals provides winter feeding grounds for seed-eating birds and the plant cover also encourages insects for them to feed on.

Natural regeneration will be most successful on light and shallow soils and on land that is next to existing non-arable areas or that has recently been converted from non-arable use. You may want to give special consideration to natural regeneration on rotational set-aside land in areas where birds associated with arable land are in decline.

Natural regeneration will be most successful after any combinable crop. Natural regeneration after legumes (which fix nitrogen) is not advisable as it could increase nitrate leaching. Natural regeneration after rapeseed is not advisable because of the difficulties of eliminating volunteers.

After harvest, you should leave the land to develop a cover from the seed bank and volunteers. The establishment of cover can be encouraged by using a chaff spreader when combining. You should not plough or deep cultivate land (except to remove compacted areas such as tramlines) or treat it with non-selective herbicides, as this may prevent natural regeneration. In the first year it may be helpful to disc or shallow cultivate to a depth of no more than 6–7 centimetres to encourage germination. You should carry out any such discing or cultivation before any significant growth of vegetation has taken place.

### ***Circumstances under which you do not need to establish a green cover***

73. If there were crops still in the ground on 1 October 2005 you do not need to establish a green cover following their harvest, but you should allow natural regeneration to develop to provide cover.

74. If a winter-sown crop was sown before 1 October 2005 and fails, such that it is incapable of yielding a harvest, the land may be set aside provided the land is eligible for set-aside and the failed crop is left in the ground until the start of the set-aside period. You may plant a green cover but this does not need to be done by 15 January.
75. If a cover fails to establish through no fault of your own (for example, the land is flooded), you are not required to take any further action to establish a cover that year, provided you took reasonable steps to try and establish the cover in the first place. In such cases, you should keep any evidence (such as seed invoices) to prove that you have taken these steps. However, if the set-aside land is to be left in the same place, you will be required to have an acceptable cover for the following year.
76. Exceptionally, if it is not practicable to establish a green cover by 15 January for climatic reasons, you should write to RPA (see paragraph 105) with an explanation at the time the problem occurs. If RPA is satisfied you could not reasonably have been expected to establish a cover, it will issue a written exemption. You must however establish a green cover as soon as possible.

## Maintaining and managing the green cover

### Advice on protecting wildlife

Agricultural operations can harm wildlife sheltering in green cover, nesting birds (particularly between March and mid-July), overwintering insects (up to mid-May) and wild flowers that have not yet set seed. There is no easy way to balance environmental and agronomic considerations in such cases. However, you can:

- avoid or delay as late as possible (until after mid-July) operations such as use of non-selective herbicides or cutting;
- use appropriate selective herbicides rather than cutting to control weeds;
- treat only the area where the problem weed is present and avoid spraying near sensitive areas such as watercourses, hedgerow bottoms and woodland;
- if using a non-selective herbicide, leave the residue of the cover in place for as long as possible to provide cover from predators for young birds in the nest; and
- if you have to mow, start regular mowing early in the year (before mid-March) to discourage birds from nesting, set the cutter at the maximum safe height and mow from the centre of the field outwards or from one end of the field to the other to leave an escape route for wildlife.

### *Weed and volunteer control*

77. Herbicides or cutting can be used to control aggressive weeds, crop volunteers or vigorous growth. A sown cover can also help to reduce weed numbers.

78. Non-residual herbicides, i.e. those herbicides which are primarily absorbed through the leaf and stem, can be used on set-aside land before 15 April provided that:
- no action is undertaken that would be likely to destroy the green cover unless you are replacing the cover (see paragraph 91); or
  - you are creating/maintaining a bare strip next to a crop which does not form part of the set-aside. This strip may be up to 2 metres wide next to a seed crop, or 1 metre in the case of any other crop; or
  - you are creating/maintaining a bare strip next to a vehicular access. The strip may be up to 5 metres wide, in any place where vehicle access to that land from a road or track adjacent to that land may be possible.
79. Non-selective herbicides must not generally be sprayed on the land before 15 April. However, before that date you may use:
- spot applications;
  - wick applicators; or
  - selective herbicides that leave the bulk of the green cover intact.
80. You may at any time on or after 15 July apply herbicides to set-aside land where they are applied in preparation for sowing, as described in paragraph 109.
81. If you have specific plant health or other problems and wish to use herbicides to destroy the green cover before 15 April, and are not intending to replace the cover immediately, you should write to RPA requesting an exemption (see paragraph 105) and explaining what you want to do and why you need to do it. You should not take any action to destroy the cover until you have received a written authorisation.
82. If you destroy a cover with herbicides but wish to keep the land in set-aside for a further year, you must establish a new cover by the start of the next set-aside period in accordance with the rules in this section.
83. If you intend to graze the green cover after the end of the set-aside period, you can only use herbicides approved for use on grazed land. All grazing re-entry periods must be observed.
84. Subject to paragraph 85, you must not apply any pesticides to set-aside land. However, if you have plant health problems that cannot be tackled by other means you may apply to RPA in writing for a specific exemption to apply pesticides (but not biocides). You should not apply pesticides until you have received a written exemption (see paragraph 105).
85. You may apply pesticides products after 15 July on set-aside land, where they are applied in preparation for sowing, as described in paragraph 109.

### *Cutting and destroying the green cover*

86. You must cut the green cover on set-aside land between 15 July and 15 August inclusive or destroy it between 15 July and 31 August inclusive. In general terms, 'destroyed' means to spray off, to plough, or cultivate by other means.
87. You must leave cuttings on the ground to rot and not remove, burn or use them. If leaving the cuttings on the ground would cause environmental problems, you may ask RPA for a specific exemption to remove them (see paragraph 105). You will need to explain in writing why you need to remove the cuttings and what you propose to do with them.

### *Exemption from the cutting/destruction requirement*

88. You need not follow the cutting/destruction regime if:
- you are creating or maintaining set-aside strips between 6 metres and 10 metres wide and do not graze the land or harvest any hay or silage from it after the end of the set-aside period. In this case the cover must still be cut at least once a year to prevent reversion to scrub, but the cut may take place at any time of the year;
  - you have sown a wild bird cover, wish to leave it as set-aside for a further year and do not intend to graze the cover after the end of the set-aside period. However, if you wish to graze the cover after the end of the set-aside period (see paragraph 116), then you must comply with the cutting requirement. Similarly, if you do not intend to leave the land in set-aside for a further year, then you must cut the cover in accordance with the rules in paragraphs 86-87; or
  - you have a specific exemption from the management rules (see paragraphs 102-104).
89. In addition, up to 25% of each set-aside area may be left uncut for up to three years to encourage a range of habitats. No specific exemption is required. However, if there is likely to be a problem of scrub encroachment, you should consider cutting the area more frequently than every three years. You may also leave up to two metres next to a hedgerow or wood permanently uncut. No specific exemption is required.
90. If the green cover is left uncut, the land may not be grazed or cut for hay or silage between 1 September and 14 January 2007.

#### **Environmental advice to consider**

You should avoid cutting between 1 March and 15 July when you may disturb or destroy nesting birds and prevent flowers from seeding.

### ***Replacing a green cover***

91. If you wish to replace an existing cover (for example for weed, pest or disease control) you may do so at any time, provided that the replacement cover is sown as soon as possible after destruction of the first cover.

### ***Cultivation***

92. You may cultivate set-aside land to control weeds from 1 July (or 1 May on organic fields in set-aside) without having to replace the green cover afterwards. You may not cultivate for any other purposes before 15 July.

### ***Fertilisers, manures and wastes***

93. During the set-aside period, you must not apply any fertiliser to set-aside land. However, if your set-aside land is in an area known to be used as a feeding ground for overwintering migratory geese and is managed as such, and you wish to apply fertiliser to create a lush grass sward for them, then you must apply to RPA for authorisation (see paragraph 105). You must wait for written permission from RPA before applying fertiliser.
94. You may apply organic waste materials such as slurry or manure. In all cases there must be an existing green cover on the land and you must not apply organic waste material at levels that would destroy the green cover.
95. Organic waste may be stored on set-aside land prior to spreading on the field in question. Set-aside land must not be used to store larger quantities of waste than are to be applied to the field on which they are being stored.
96. Set-aside land must not be used as a storage, disposal or dumping ground for any other form of waste.
97. You must keep slurry and manure away from field margins and hedgerow bottoms, at least 10 metres away from field ditches and surface water and 50 metres away from any boreholes.
98. You may only apply lime or gypsum to set-aside land where that land is to be cropped in the following year.

### Advice on organic waste

The capacity of the green cover to take up nutrients will probably be small.

Applications of organic manure should be moderate (see the *Cross Compliance Handbook for England* for further information).

Any applications of animal manures to set-aside should be made carefully so as to minimise the risk of water pollution. Please follow the guidelines given in the *Code of Good Agricultural Practice for the Protection of Water*.

Some vigorous weed species – for example black-grass, wild oats and cleavers – are very responsive to nitrogen. To avoid encouraging these aggressive weeds, you should apply only moderate amounts of animal manures.

The application of slurry and manure can disturb wildlife. Avoid applications when there are likely to be nesting birds (for example from March to mid-July).

### Advice on agricultural drainage

Agricultural drainage works may be carried out at any time provided that, if necessary, the green cover is replaced as soon as the work is completed. Drainage works can be damaging to archaeological features on protected sites (such as scheduled monuments), and in such cases drainage operations require consent from your Local Authority Archaeological Officer.

### Vehicle access

99. You may leave a bare ploughed strip up to 5 metres wide next to likely points of access in set-aside fields where vehicle access is possible. This may be useful where unauthorised vehicle access is a problem.

### Alternative management plans

100. If you wish to follow a specific management plan that differs from the standard management rules for set-aside you should apply to RPA for written authorisation before you do so (see paragraph 105).
101. We would normally expect your application to be supported by an appropriate environmental organisation, research body or the Local Authority Archaeological Officer. You should include any supporting documentation (for example, copies of letters from public utilities) with your letter applying for authorisation.

### Exemptions from the set-aside management rules

102. You must follow the management rules in this section unless:
- you are growing non-food crops on the land under the rules in Section G;
  - after 15 July you have started preparations to sow, or have sown, a crop for harvest the following year;
  - you have obtained a specific written exemption from RPA, in which case you must follow the terms of that exemption as well as all cross compliance rules; or

- you have land in an agri-environment or woodland scheme which counts towards your set-aside requirement, and the set-aside management rules are incompatible with the management plan agreed under those schemes.
103. You may apply to RPA for exemptions from any of the set-aside management rules for environmental or archaeological reasons, for example to:
- benefit or avoid damaging or disturbing wildlife;
  - manage the land to encourage ground-nesting birds;
  - provide alternative feeding areas for geese;
  - provide otter havens close to river banks;
  - allow scrub or woodland to regenerate (providing that you do not intend to use the cover for hay, silage or grazing at the end of the set-aside period); or
  - conduct an archaeological excavation.
104. You may also apply for an exemption for:
- reasons of human, plant, or animal health and safety;
  - research into different ways of managing set-aside and/or the effects of set-aside; or
  - training agricultural students in agricultural techniques (for example ploughing) providing that the training does not include sowing of any crop.

#### **Advice for tenants**

Tenants are advised to consult their landlords before seeking an exemption for any management practice that might affect the nature or value of their land (such as allowing scrub or woodland to regenerate) to ensure they would not be in breach of an actual or implied term in their tenancy agreement.

105. To apply for an exemption you must apply to the RPA Customer Service Centre in writing.

In the title of the e-mail or in the reference of your letter please quote 'Set-aside exemption'

E-mail: [csc@rpa.gsi.gov.uk](mailto:csc@rpa.gsi.gov.uk)

Write to: Customer Service Centre  
Rural Payments Agency  
PO Box 1058  
Newcastle upon Tyne  
NE99 4YQ

## F Use of set-aside land

### Prohibited uses

106. During the set-aside period (15 January to 31 August inclusive) you must not use the land for any form of agricultural production, including horticulture and grazing (including pet animals), apart from the exceptions described in paragraph 109.
107. During the set-aside period you must not put set-aside land to any non-agricultural use that brings a return in cash or kind to you or anyone else, apart from the exceptions described in paragraphs 112–114.
108. Set-aside land must not be used for any activity that is incompatible with the management rules described in Section E. For example, you must not use the land for anything that would seriously damage the green cover where one is required and any minor damage must be repaired promptly.

### Permitted uses of land during the set-aside period

109. Although set-aside land cannot in principle be used for agricultural purposes, the following agricultural uses are permitted during the set-aside period:
  - production of non-food crops under the rules described in Section G;
  - on or after 15 July, preparation for sowing any crops. You can also sow seed on or after 15 July (including grass and forage) to produce a crop for harvesting after 1 January in the following year. In no circumstances can any crop sown on set-aside land between 15 July and 31 August be harvested or used before 1 January in the following year. Grass sown between these dates cannot be used for grazing, silage or any other forage use before 1 January in the following year;
  - after 15 July, preparation for pigs – your own or those of another farmer for which you are not receiving a return. This includes the placing of shelters and water troughs as well as arrangements for the provision of water. The pigs must not be moved onto the land until 1 September. If appropriate, a copy of any rental agreement must be submitted to RPA so that it can establish that you will not receive any return in cash or kind; and
  - temporary storage of produce from your holding, for example bales of straw or timber awaiting collection, provided this does not significantly damage the green cover.

110. You may encourage wild game and may shoot over set-aside land. However, you must not use set-aside land to rear birds for a commercial shoot or to establish new commercial shooting facilities.
111. Sowing any agricultural crop (other than an acceptable green cover) counts as agricultural production, even if the crop is not taken through to harvest. This includes land sown with a crop that is subsequently destroyed.

### ***Non-agricultural use of set-aside land***

112. Different rules apply to the use of set-aside land for non-agricultural activities than apply to other SPS eligible land. Some forms of non-agricultural use may be allowed on set-aside land provided they are small-scale, do not give rise to profit and do not damage the green cover. These include:
- activities which could be carried out equally well if there were a standing crop on the land; and
  - local small-scale charitable fund-raising events.
113. If you want to allow use of your set-aside land for any non-agricultural purpose, including charitable fund-raising events you must apply in writing to the RPA Customer Service Centre at the early planning stage, giving full details. You should await a decision before allowing any activities to take place on your set-aside land and allow time for changes in arrangements if it is not possible to allow the event to take place.
114. You may conduct certain non-lucrative operations on the land, such as repair or erection of fencing before the end of the set-aside period.

### **Uses of land after the end of the set-aside period**

115. Between 1 September and 14 January in the next year, you may harvest hay or silage for your own use, provided you have cut the cover as required between 15 July and 15 August.
116. After 31 August, you may graze the cover with your own or someone else's animals. However, you cannot put animals on to a grass ley which was established after 15 July in the set-aside year until 1 January in the following year. You must cut the cover before grazing if you wish to use the land as set-aside the following year. Ensure that any damage to the cover caused by the animals does not prevent you having an acceptable green cover at the start of the next set-aside period. Exemptions from the obligatory cutting requirement are explained in paragraphs 88–90.
117. You must remove the animals from your land before 15 January 2007 if you wish to return it to set-aside that year. If it is not to remain in set-aside, you may continue to graze it as you wish.

## G Growing crops for non-food uses on set-aside land

### Introduction

118. There are two different categories of crops covered by this section:

- crops which are not used at all for food or animal feed; and
- crops which may have a food or animal feed use, but which are being grown for specific end products.

119. You must ensure you are fully aware of the rules for growing non-food crops because failure to comply will incur penalties. The guidance below is based on the rules for growing non-food crops in Commission Regulation (EC) No. 1973/2004.

120. You must not grow any crops to produce seed for sowing.

121. Energy Crop Aid, introduced in 2004, is not available for any crops grown on set-aside land.

122. Approved varieties of hemp may be grown on set-aside land if you hold a Home Office licence, providing it is for producing one of the end products listed in Appendix 2. Special rules apply to growing hemp; these can be found in Appendix 3.

### Set-aside management rules

123. The set-aside management rules described in Section E do not apply to land growing non-food crops. However, you must:

- observe the other rules in this Handbook;
- observe cross compliance rules including, in particular, the rule relating to protection of hedgerows and watercourses (see GAEC 14 of the *Cross Compliance Handbook for England 2006 edition*); and
- not apply fertilisers or wastes in quantities in excess of the need of the crop or in contravention of the *Code of Good Agricultural Practice for the Protection of Water*.

124. If you are sowing a spring crop, you should retain a green cover over winter where possible, for example by allowing natural regeneration of the previous crop.

## Crops with no food or animal feed use

125. The limited range of crops that are not used for food or animal feed and which may be grown on all or part of your set-aside land are listed in the table in Appendix 1. Contracts and securities are not required to grow these crops on set-aside land. However, you must undertake only to sell or use the crop for one of the acceptable non-food purposes set out in the table in Appendix 2. No delivery notification form is required.
126. In your SPS application form, you will have to identify the fields planted with these crops, the crops grown on these fields, the length of the crop cycle and the frequency of harvesting.
127. In signing the application form, you will be giving an undertaking that you understand and are abiding by the rules and that breach of the rules will result in penalties. There will be no SPS penalties if you cannot find a market for the crop.
128. Short rotation coppice (SRC) and *Miscanthus* grown for energy are supported under the Energy Crops Scheme, part of the ERDP. Planting grants are available for crops on set-aside and other land and SRC and *Miscanthus* growers receive £1000 and £920 per hectare respectively. These payments will not affect your eligibility to claim payment under the SPS. For further information contact your local RDS office.

## Growing crops with food or animal feed uses for specific end products

129. Any crops with food or animal feed uses can be grown on set-aside land provided they are used to make any of the end products listed in the table in Appendix 2. Sugar beet, Jerusalem artichokes and chicory may be grown on set-aside land without payment, in accordance with the rules in Article 143(2) of Commission Regulation (EC) No. 1973/2004. Further advice is available from RPA.
130. Perennial or biennial crops may be grown as a non-food crop on your set-aside land, provided they have an end use listed in the table in Appendix 2. You must leave the crop in the ground and claim it as a non-food crop on set-aside land each year for the duration of the contract.
131. If this continuity is broken, for example if you lift the crop from the ground, or if you fail to include the area on your SPS application for each year, this would constitute a break in the contract. You would then have to re-sow the non-food crop and take out a new contract, which must be concluded and lodged by the closing date for applications in the year the crop is sown. The duration details on the contract must clearly state the number of years that the crop is to remain under contract as a non-food crop on set-aside land.
132. Contracts for multi-annual harvesting can be activated each year provided that the contract specified on lodgement that this would be the case.

### *Permitted end uses*

133. The crops grown must be processed within the EU into a non-food product listed in Appendix 2. The value of the non-food end product(s) must be greater than the total value of all the by-products destined for food or feed and produced from the same processing operation. For example, the meal produced by processing your non-food oilseed rape crop can, subject to this restriction, be used for a food or animal feed purpose. In addition, the rape straw can be used for animal bedding. RPA is responsible for assessing the relative values, and you must contact RPA if you have any doubt about the relative values of the different by-products resulting from your crop.

### **The contract**

134. If you wish to use your set-aside land to grow crops with food or animal feed uses for any of the end products listed in Appendix 2, you must have a valid signed contract with a collector or first processor. A collector is someone who buys the harvested crop from farmers to sell it on to a suitable first processor. The rules that apply to the collector/first processor are not described in detail here. For further information contact RPA.

135. It is your responsibility to provide a valid contract containing the following:

- the name and address of all the contracting parties;
- the duration of the contract;
- the species of each crop, the raw material, and the area sown;
- the conditions applicable to delivery;
- for oilseeds, the intended forecast yield of the crop grown;
- the intended primary end use of the raw material, each end use being in conformity with the requirements of Commission Regulation (EC) No. 1973/2004;
- an undertaking by the farmer to deliver all the harvested crop to the collector/first processor;
- an undertaking by the collector/first processor to take delivery of all of it and ensure an equivalent amount of material is used within the EC to make one or more of the end products listed in Appendix 2; and
- the forecast quantity of by-products not destined for human or animal consumption. This only applies to contracts relating to rapeseed, sunflower seeds or soya beans falling under CN codes 1205 10 90, 1205 90 00, 1206 00 91, 1206 00 99 or 1201 00 90.

136. You must ensure that a valid contract signed by all parties is submitted with your application by 15 May 2006. Penalties may have to be applied for contracts that are submitted late. Collectors/first processors must submit a copy of the contract to RPA by the same date. The collector/first processor must also deposit with RPA by 15 May 2006 a security equal to €250 per hectare for the area covered by the contract.

### ***Amendment of the contract***

137. A valid contract may be amended or terminated (with the agreement of the contracting parties) at any time up to 31 May 2006. Collectors and first processors must deposit a copy of the amended or terminated contract with RPA by that date to enable all necessary checks to be carried out. The security lodged with RPA will be adjusted in line with any amendments.
138. If the contract is to be amended or terminated after you have submitted your SPS application but by the final date for amending the SPS application (31 May 2006), you must inform RPA. The collector/first processor must also inform RPA to enable all necessary checks to be carried out.

### ***Reductions of area under contract***

139. If the area under contract is reduced and the contract is amended after you have lodged your SPS application but before the last date for amendments, you must inform RPA before 31 May 2006.

### ***Inability to meet representative yield***

140. If you fail to deliver at least the representative yield then you must contact RPA. In duly justified cases, a shortfall of up to 10% may be permitted. If you fail to deliver the amount of raw material required under this scheme, then penalties may be applied.
141. If, in exceptional circumstances, it becomes clear before harvest that you are unable to meet the representative yield for any crop, you must inform RPA with evidence of the exceptional circumstances. RPA may then authorise amendment or termination of your contract. If RPA agrees a reduction in the raw material to be produced, you and the collector/first processor named on the contract will need to submit an amendment form to RPA.
142. In the event that the proposed amendment to the contract would lead to a reduction in the area of land covered by the contract, the land must still count as set-aside and the crop must not be sold, given away or used in any way. You must explain to RPA how you will dispose of the crop. You should also comply with any special requirements set by RPA. For example, it may be necessary for the disposal of the crop to be supervised.

### ***Harvest***

143. You must deliver the entire harvested crop to the collector/first processor. Delivery may take place on-farm if the collector/first processor takes full legal responsibility for the crop at that stage. However, the crop must be kept separate from any other harvested material at all times until an accurate weight is established. RPA will require an accurate assessment of the weight delivered. This may initially be done by volumetric assessment until an accurate weight is established on a weighbridge.

### *After delivery*

144. After delivery, you must send a delivery declaration form NFC/ENC9 to RPA, declaring the total quantity harvested by species, the person or persons to whom it has been delivered and the quantity delivered. A separate declaration is required for each contract.

### *Payment*

145. Payment will be made once RPA has received form NFC/ENC9 and the collector/first processor has confirmed to RPA receipt of the entire crop. Late notification will lead to delayed payment. It is therefore important that collectors/first processors send in their delivery declaration form(s) as soon as possible. You must inform your collector/first processor when the final load of any contract has been delivered.

### *Reductions under the contract*

146. As a result of the EU's international obligations, there is an overall ceiling on the tonnage of oil seeds (rapeseed, sunflower seed and soya beans) grown on set-aside land. If that ceiling is exceeded, a percentage reduction will be applied to each contract. You will be notified if this becomes necessary.

## **Crops for on-farm energy use**

147. You may use all cereals or oilseeds covered by CN codes:

- 1201 00 90;
- 1205 10 90;
- 1205 90 00;
- 1206 00 91; and
- 1206 00 99

grown on your set-aside land as fuel for heating your agricultural holding, or for the production on your holding of power or biofuels. You need to undertake, by way of declaration to RPA, to use the crops covered by the declaration.

148. Crops grown on your set-aside land may be processed into biogas falling within CN code 2711 29 00. You need to undertake, by way of declaration to RPA, to process directly the crops covered by the declaration.

149. These activities are allowed by Article 146 of Commission Regulation (EC) No. 1973/2004. Crops must be weighed at a public weighbridge. However, cereals and oilseeds may be measured by volumetric assessment, and must also be denatured by application of a brightly-coloured dye.

150. If you wish to take advantage of these arrangements apply to RPA in writing with full details of your proposal, including relevant technical information concerning the proposed on-farm processing of the crop. It may be necessary for RPA to inspect your processing facilities before making a decision on your application.

## H Penalties relating to set-aside land

151. You may be penalised if, either by negligence or deliberate intent:
- you do not set aside enough land against which to claim your set-aside entitlements;
  - you do not meet the set-aside management rules on your set-aside land; or
  - you do not meet the cross compliance rules as described in the *Cross Compliance Handbook for England 2006 edition*.
152. Further details on penalties will be published in the *Single Payment Scheme Handbook and Guidance for England 2006 edition* containing the full scheme rules that you will receive with your SPS application form.
153. **You will also be penalised if you submit your SPS application form after the deadline of 15 May 2006.**

# Appendices

## Appendix 1

Crops that may be grown on set-aside land without a contract provided they are intended for the manufacture of the products listed in Appendix 2

<i>CN code</i>	<i>Brief description of products</i>
ex 0602 90 41	Short rotation forest trees with a harvest cycle of 20 years or less.
ex 0602 90 49	Trees, shrubs and bushes, producing plant material covered by CN code 1211 and by Chapter 14 of the <i>Combined Nomenclature</i> , excluding all those which can be used for human or animal consumption.
ex 0602 90 51	Outdoor multi-annual plants (e.g. <i>Miscanthus sinensis</i> ) other than those which can be used for human or animal consumption, in particular those producing plant material covered by CN code 1211 (other than lavender, lavandin and sage), and by Chapter 14 of the <i>Combined Nomenclature</i> .
ex 0602 90 59	<i>Euphorbia lathyris</i> , <i>Sylibum marianum</i> , <i>Polygonum tinctorium</i> and <i>Isatis tinctoria</i> .
1211 90 95	<i>Digitalis lanata</i> , <i>Secale cornutum</i> and <i>Hypericum perforatum</i> excluding plant material which can be used for human or animal consumption.

'ex' in front of a CN code means that only the plant listed beside the code is permitted to be grown and not all plants which fall under the code.

## Appendix 2

### End products that may be produced from crops grown on set-aside land, other than for human or animal consumption

- All products falling within Chapters 25 to 99 of the *Combined Nomenclature*.
- All products falling within Chapter 15 of the *Combined Nomenclature* and intended for uses other than human or animal consumption.
- Products covered by CN code 2207 20 00 and intended for direct use in motor fuel or for processing for use in motor fuel.
- Packaging material covered by CN codes ex 1904 10 and ex 1905 90 90, on condition that proof has been obtained that the products have been used for non-food purposes in accordance with Article 158(4) of Commission Regulation (EC) No. 1973/2004.
- Mushroom spawn falling within CN code 0602 91 10.
- Lac, natural gums, resins, gum-resins and balsams covered by CN code 1301.
- Saps and extracts of opium covered by CN code 1302 11 00.
- Saps and extracts of pyrethrum, or of the roots of plants containing rotenone, covered by CN code 1302 14 00.
- Other mucilages and thickeners covered by CN code 1302 39 00.
- All agricultural products listed in Article 145(1) of Commission Regulation (EC) No. 1973/2004 and products derived therefrom by an intermediate process and used as fuel for energy production.
- All products listed in Annex XXII of Commission Regulation (EC) No. 1973/2004 (i.e. Appendix 1 of this Handbook) and products derived therefrom and intended for energy purposes.
- *Miscanthus sinensis* falling within CN code 0602 90 51, shredded, intended for use as horse litter, mulch, additives to improve compost and litter for the drying and cleaning of plants, as well as this raw material or its fibre used as materials for construction.
- All products referred to in Commission Regulation (EEC) No. 1722/93 (as last amended by Regulation (EC) No. 216/2004), on condition that they are not obtained from cereals or potatoes cultivated on set-aside land and that they do not contain products derived from cereals or potatoes cultivated on set-aside land.
- All products referred to in Council Regulation (EEC) No. 1260/2001 (as last amended by Commission Regulation (EC) No. 30/2004), on condition that they are not obtained from sugar beet cultivated on set-aside land, and that they do not contain products derived from sugar beet cultivated on set-aside land.

'ex' in front of a CN code means that only the plant listed beside the code is permitted to be grown and not all plants which fall under the code.

## Appendix 3

### Special rules for hemp grown on set-aside land

Hemp may be grown on set-aside land for one of the end products listed in Appendix 2.

You must obtain a licence from the Home Office if you intend to grow hemp. It is a criminal offence to cultivate hemp in the United Kingdom, for any purpose, without such a licence. An application for a licence should be made to:

Home Office  
Drugs Licensing and Enforcement Unit (DLEU)  
6th Floor  
Peel Building  
2 Marsham Street  
London SW1P 4DF  
Telephone: 020 7035 0479  
Fax: 020 7035 6161

Applications for Home Office licences should be made as early as possible once serious consideration is being given to growing hemp. Licences are not automatically issued by the Home Office. In considering each application, the bona fides of the applicant and the purpose of growing the hemp, together with the proposed locations of the growing sites including Ordnance Survey details, will be taken into account by the Home Office. Evidence that you have a contract to supply the hemp produced to a Home Office-approved processor may also be required.

As with most other crops grown on set-aside land, a copy of the contract concluded with a processor must be supplied to RPA with your SPS application. Hemp seed of an eligible variety must be sown and details of these varieties are available from RPA. In the case of hemp grown for fibre, the seed must also be certified in accordance with Article 12 of Council Directive 2002/57/EC. The original official seed labels, confirming the variety, must be supplied to RPA with your application. These will be receipted by RPA and returned to you. When sowing takes place after 15 May, these documents must be submitted no later than 30 June. It is recommended that seed labels are sent to RPA by Recorded Delivery post.

Under EC rules the UK must sample at least 20% of the area growing hemp to ensure that the tetrahydrocannabinol (THC) content of the crop does not exceed the level prescribed by the EC legislation (0.2%).

Producers must therefore maintain, for each variety sown, three distinct parts of each field claimed, each part comprising at least 4000 plants, until at least 10 days after flowering in case sampling is necessary.

Growers must not harvest these areas until sampling has been completed or a written notification stating that sampling is not necessary has been received from RPA.

## Appendix 4

### Determining whether your land is permanent pasture

To determine whether your land is permanent pasture for the purposes of the scheme, you should consider its status on 15 May each year.

Land which has been down to grass or herbaceous forage since 15 May 1998 is classified as permanent pasture on 15 May 2003 **and cannot be used to meet a farmer's set-aside obligation, even if that land is later brought into the arable rotation** (for exceptions see paragraphs 17-18).

Land which has been down to grass or herbaceous forage since 15 May 2001 will be classified as permanent pasture on 15 May 2006.

However, land which is in long-term grass, but which has been reseeded following a catch crop such as stubble turnips in the last five years counts as arable land.

### Examples

Field	15 May (each year)									Permanent Pasture	
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2003	2006
1	A	A	G	G	G	G	G	G	G	X	✓
2	A	A	A	A	G	G	G	G	A	X	X
3	A	A	A	A	G	G	G	G	G	X	✓
4	A	A	A	G	G	G	G	G	A	X	X
5	G	G	G	G	G	G	G	A	G	✓	
6	G	G	G	G	G	G	G	A	A	✓	
7	G	G	G	G	G	G	A	A	A	✓	
8	A	G	G	G	G	A	G	G	G	X	X

Key: G – In grass or herbaceous forage on 15 May

A – Growing an arable crop or in set-aside on 15 May

- **Field 1:** temporary grass 2003; permanent pasture in 2006.
- **Field 2:** temporary grass 2003; arable cropping, not permanent pasture in 2006.
- **Field 3:** temporary grass 2003; permanent pasture in 2006.
- **Field 4:** temporary grass 2003; arable cropping, not permanent pasture in 2006.
- **Fields 5, 6 and 7:** all ineligible for set-aside, regardless of 2006 use, as they were in permanent pasture in 2003.
- **Field 8:** in arable cropping 2003; temporary grass not permanent pasture in 2006.

#### Note:

- Because of their status as permanent pasture in 2003, fields 5, 6 and 7 would not normally be eligible for set-aside (for exceptions see paragraphs 17-18).
- Because of their status in 2003, fields 1 and 3 may be used for set-aside in future years if they are returned to the arable rotation.

## Appendix 5

### Glossary

#### *Arable land*

Arable land includes:

- land used for normal arable/combinable crops including energy and protein crops, flax and hemp;
- land used for potatoes, sugar beet and other root crops;
- land used for forage maize and forage rape;
- land under grass for less than five years;
- land under grass counted as set-aside in the last five years;
- land used for fruit (including strawberries) but not top fruit;
- land used for vegetables;
- land under greenhouses or under fixed or mobile cover (unless the land has been made unsuitable for agriculture, for example by concreting) which is otherwise eligible;
- land used for multi-annual crops (see below);
- nurseries growing multi-annual crops;
- land used for cut flowers and bulbs;
- land used for turf, except for fuel;
- existing set-aside; and
- fallow land maintained in GAEC.

Land and nurseries growing the following multi-annual crops are considered to be arable land:

- artichokes;
- asparagus;
- rhubarb;
- raspberries, blackberries, mulberries and loganberries;
- black, white and redcurrants and gooseberries; and
- cranberries, bilberries and other fruits of the genus *Vaccinium*.

#### *Herbaceous forage*

Herbaceous forage is:

All herbaceous plants traditionally found in natural pastures or normally included in mixtures of seeds for pastures or meadows in the United Kingdom (whether or not used for grazing animals).

These include lucerne, sainfoin, forage vetches and clovers but **not** any of the following: kale, fodder rape or any other forage brassicas, fodder root crops, forage maize or any other cereals grown for silage or for any other form of forage.

### *Herbage seed crop*

Grass grown to produce a crop for the harvest of grass seed.

### *Land eligible for set-aside*

Land is eligible for set-aside in 2006 if:

- it is arable land on 15 January 2006; and
- it is not ineligible because of its use on 15 May 2003 (see paragraph 17).

Some land not meeting these requirements may also be eligible if it is:

- in an agri-environment scheme (see paragraphs 23-31);
- in a woodland scheme (see paragraph 32); or
- growing permanent crops (see paragraph 19).

### *Natural regeneration*

Growth of a self-seeded cover from the previous crop or other vegetation.

### *Permanent crops*

Non-rotational crops other than permanent pasture that occupy the land for five years or longer and yield repeated harvests, including nurseries as defined in point G/05 of Annex I to Commission Decision 2000/115/EC, and short rotation coppice (CN code ex 0602 90 41), with the exception of multi-annual crops and nurseries of multi-annual crops. Nurseries, as defined in point G/05 of Annex I to Commission Decision 2000/115/EC, include nurseries of *Miscanthus* and short rotation coppice.

### *Permanent pasture*

Permanent pasture is land:

- used to grow grasses or other **herbaceous forage**, which may be naturally self seeded or sown; **and**
- not included in the crop rotation for five years or more; and
- not set aside during this five-year period whether under AAPS or the SPS or taken out of production under some agri-environment scheme options (see paragraph 23-31).

### *Sites of Special Scientific Interest (SSSI)*

An area of land that has been notified under Section 28 of the Wildlife and Countryside Act 1981. Please see *Cross Compliance Handbook and Guidance 2006 edition* for further information.

### *Temporary grass*

Land that has been continuously in grass for less than five years, whether reseeded or not during that time. Temporary grass is considered arable land under the SPS.

## Further information

RPA is the first point of contact for the rules of the SPS (lines open 8.30am to 5pm, Monday to Friday). You should call the RPA Customer Service Centre on 0845 603 7777 or email [csc@rpa.gsi.gov.uk](mailto:csc@rpa.gsi.gov.uk) or, for more information about the SPS, visit the RPA website at [www.rpa.gov.uk](http://www.rpa.gov.uk)

Customer Service Centre  
PO Box 1058  
Lancaster House  
Hampshire Court  
Newcastle Business Park  
Newcastle upon Tyne  
NE99 4YQ

You can find the relevant EC regulations on the European Union website at [europa.eu.int/eur-lex/lex/en/index.html](http://europa.eu.int/eur-lex/lex/en/index.html)

You can get the relevant domestic law provisions from the Office of Public Sector Information, which provides unamended versions of legislation. Visit [www.opsi.gov.uk](http://www.opsi.gov.uk) or call 0870 600 5522.

Defra website: [www.defra.gov.uk](http://www.defra.gov.uk)

### **Rural Development Service (RDS)**

For details relating to the England Rural Development Programme's schemes (including the Environmental Stewardship schemes) or services, please contact your local RDS office. Further details can also be obtained at [www.defra.gov.uk/corporate/rds/default.asp](http://www.defra.gov.uk/corporate/rds/default.asp)

If you would like to receive a copy of all of the current Single Payment Scheme (SPS) publications on a single CD-ROM, please contact Defra Publications, see contact details below.

Other existing SPS publications:

<b>Title</b>	<b>Defra publication no.</b>
<i>Cross Compliance Handbook for England 2006 edition</i>	PB 11305
<i>Cross Compliance Guidance for Soil Management 2006 edition</i>	PB 11162
<i>Cross Compliance Soil Protection Review</i>	PB 11160
<i>Cross Compliance Guidance for the Management of Habitats and Landscape Features 2005 edition</i>	PB 10222C
<i>SPS Information for farmers and growers in England October 2005 update</i>	PB 11163

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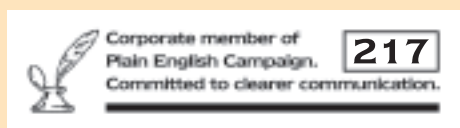
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