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EDITION

Arable Area Payments Scheme

Explanatory Guide: Part II

This part sets out the rules for set-aside. Part I contains the other rules of the Scheme. Both parts of this booklet should be retained as it is no longer produced annually. Amendments are issued as necessary.

If you are an arable farmer, it is important that you read this booklet. It tells you how to claim EC area payments on cereals, oilseeds, protein crops, linseed, flax and hemp for fibre and set-aside land.

DEFRA
Department for
**Environment,
Food & Rural Affairs**

The logo for the Rural Payments Agency (RPA) features a stylized grey wave above the lowercase letters 'rpa'. Below the letters, the full name 'rural payments agency' is written in a smaller, lowercase sans-serif font.

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A. TYPES OF SET-ASIDE

Obligatory set-aside

1. Under the rules of AAPS, if you are not a small producer (see paragraphs 15-18 in Part I of this Guide, you must set aside at least 10% of the area of your AAPS claim. **The land you set aside must be eligible under the Arable Area Payments Scheme (see paragraphs 8-12 in Part I of this Guide).** Your set-aside may be left in the same place or moved in a rotation as you wish. Different fields or parcels of land within fields can be treated differently. A Check list of key dates for set-aside is included in Part I of this Guide.
2. Where a claim does not include the obligatory set-aside requirement, the claim will be scaled back by the RPA Processing Site. This will involve either the reduction of the cropped area claimed to that supported by the set-aside in the claim or to the maximum area that can be claimed by a small producer, whichever gives the greater amount of aid. In scaling back claims, the area of each crop claimed will be reduced in proportion to the areas originally claimed.
3. If we inspect your claim and find that any of the set-aside area does not comply with the AAPS rules, we will apply penalties. In addition, if your total claim is above the threshold for a small producer, and if the breach is something other than of the management rules, we will scale back your crop areas to what can be supported by the valid set-aside area. An amendment to the current EC rules is under consideration which would stop the scaling back of crop areas in 2002 when a claim reaches the threshold for a small producer. However, if the amendment is not made the scaling back could in the extreme case reduce your crop areas to zero, and leave you no payment at all.

Voluntary set-aside

4. All AAPS claimants may set aside AAPS eligible land on a voluntary basis. If you are classed as a small producer because your total claimed area is below the threshold for obligatory set-aside you may still have set-aside land on a voluntary basis.
5. If you are not a small producer but have met your set-aside obligation, you may voluntarily set aside additional land. However if you choose to set aside land in addition to the basic obligation you must ensure that your total set-aside area does not exceed more than 50% of the cropped area for which you are claiming payments under AAPS.

6. There are three exceptions to this rule, where up to 100% of your claim can be set aside. These are where the entire set-aside area is:

- used for the production of multiannual crops for biomass production, e.g. short rotation coppice;
- ex-Five Year Set-aside Scheme (FYSS) land which has been in continuous set-aside and the same occupancy under AAPS since leaving the FYSS; or
- AAPS eligible land which has been taken out of arable production under an agri-environmental scheme (e.g. the Nitrate Sensitive Area Scheme) and has now left that scheme.

Multiannual set-aside

7. You are allowed, under certain conditions, to enter your land into Multiannual Set-aside. This provides for the same land to be set-aside for up to five years whilst guaranteeing that you will not be adversely affected by any decrease in the basic aid rate (set in euros) or any reduction in yield under the regionalisation plan.

8. If you wish to enter land into a Multiannual Set-aside agreement, you need to complete Form IACS 31 available from your RPA Processing Site and return it by 15 May. Where you are entering land, which has been planted to short rotation coppice, this should be stated on the form. If you need to have a management plan approved, Form IACS 38 may be submitted to your RPA Processing Site at any time. Further information on the preparation of a management plan is given the booklet (AR 34).

9. Agreements must be for three or five years depending upon your status:

- If you are a freehold owner, then your Multiannual Set-aside agreement must be for a period of five years;
- If you are a tenant farmer with five or more years left of your tenancy, then your Multiannual Set-aside agreement must be for a period of five years;
- If you are a tenant farmer with less than five years of your tenancy remaining, then you may enter into a Multiannual Set-aside agreement for a period of three years.

10. Tenants should note that Multiannual Set-aside involves a long-term commitment. If you are a tenant, you are advised to consult your landlord before entering a Multiannual Set-aside agreement. If you are farming land on a short term tenancy of less than 3 years, it would not be advisable to enter that land into a Multiannual Set-aside agreement, unless you have a written assurance that the tenancy will be renewed.
11. Other than land used to grow non-food crops such as short rotation coppice where the rules in Section E apply, land entered into Multiannual Set-aside must either be maintained in accordance with:
- the management rules in the Guide; or
 - a management plan which has been approved by your RPA Processing Site.
12. If you are not entitled to set aside up to 100% of your claimed area and you subsequently reduce the cropped area of your claim so that the area under Multiannual Set-aside exceeds 50% of your claim, the area covered by the agreement may be adjusted accordingly to ensure the limit on set-aside is respected. No penalty will apply to the area that is then withdrawn from the Multiannual Set-aside agreement.
13. The commitment under Multiannual Set-aside relates to the land. If occupancy of the land changes during the three or five-year agreement, the new occupant may take over the agreement for the remainder of the period of the agreement (including the observance of any management plan). If the new occupant does not take over the agreement, penalties will be applied to the previous occupant.
14. In the event of the new holder of the Multiannual Set-aside agreement failing to observe the terms of the agreement at any point during the remainder of the period of the agreement, penalties for early withdrawal will be applied. Farmers intending to transfer their Multiannual Set-aside agreement are therefore strongly advised to seek professional advice before entering into any such arrangements.
15. If you intend to withdraw land from a Multiannual Set-aside agreement or transfer the agreement to another farmer, you must complete form IACS 32 and submit it to your RPA Processing Site within 3 months of the transaction taking place or by 15 May if sooner. Where the agreement is being taken over by another farmer, both parties must sign the form. It must be returned to the RPA Processing Site within three months of the transaction taking place, or with the area aid application of the transferee whichever is the earlier.

16. The EC Regulations state that where you deliberately go back on your Multiannual Set-aside agreement before it ends, penalties will apply. This means that the agreement must be honoured for the full three or five years. The only exceptions are:

- where the area is to be afforested under an agri-environment scheme; or
- where there is a change in the farm structure beyond your control.

17. You may leave your Multiannual Set-aside agreement or reduce the area covered by it without penalty in the circumstances described at paragraph 15. However, there will be a penalty for any plot withdrawn if you fail to:

- declare the land as set-aside in your area aid application;
- observe the management conditions;
- observe the terms of any management plan.

The penalty will be calculated as follows:

Area x (Set-aside payment rate x 5%) x number of years agreement has to run.

Guaranteed set-aside

18. Guaranteed set-aside was an option whereby producers undertook to set aside the same land for five years in return for a guaranteed payment rate. You cannot now enter into a new guaranteed set-aside agreement as the option is closed, but existing agreements will continue subject to the rules and conditions of the original agreement.

Former additional voluntary set-aside (former Five Year Set-aside Scheme land)

19. Additional voluntary set-aside was land that had been in the Five Year Set-aside Scheme (FYSS) and subsequently set aside continuously under AAPS since leaving the FYSS. Additional voluntary set-aside no longer exists as a separate option. However, land which was previously set-aside under the old FYSS, and which has continued in set-aside under the AAPS and remained in the same occupancy since, will be allowed to continue in set-aside even where this exceeds 50% of the claimed area.

Forestry and land withdrawn from production under agri-environment schemes – link option

20.

Eligible arable land withdrawn from production under the Farm Woodland Premium Scheme, the Woodland Grant Scheme, the set-aside option of the Nitrate Sensitive Areas Scheme, the Habitat Scheme or in certain circumstances an Environmentally Sensitive Area scheme can count towards your AAPS set-aside requirement, provided that the application to enter the environmental scheme was made on or after 1 July 1995. However, land in the Countryside Stewardship Scheme **cannot** count towards your set-aside requirement. You must comply with the terms of the scheme and will be paid under that scheme. Although the land can count towards your set-aside obligation you will not receive payments under AAPS for the land. The level of the environmental scheme payment will not exceed the set-aside payment rate where the land is claimed as set-aside. In addition to complying with the rules of the scheme, the land must also comply with the EC rules on set-aside. If in doubt, you should contact your RPA Processing Site for details.

B. SELECTING YOUR SET-ASIDE LAND

Introduction (Key environmental advice is shown in blue type)

21. With appropriate choice of site and management, set-aside can be used to meet agronomic objectives and can also benefit wildlife and protect archaeological features. You will need to decide upon your objectives and then choose your site and management techniques accordingly. When deciding upon your objectives you should take account of features, wildlife and agronomic problems on your own and neighbouring land. The map you prepared for your IACS area aid application may help your planning as it should show many environmental features. You may want to discuss your plans with your neighbours or contact one of the organisations listed in Appendix 10 in Part I of this Guide. Additional information about the best way to manage set-aside for environmental benefits is given in booklet AR14 which is available from your RPA Processing Site.

22. Set-aside needs careful planning to maximise the agronomic and environmental benefits. You will need to consider issues such as:

- whether you will leave the set-aside land in one place or move it;
- where you will position it;
- what cover you will choose; and
- how you will manage it.

Whether to move your set-aside or leave it in the same place?

23. If suitable land is left in set-aside over several years it can bring about significant environmental benefits. Existing wildlife habitats can be expanded, buffered and linked, and new ones can be created. Leaving the set-aside in one place also means that you can avoid agricultural operations on the land at times when wildlife may be disturbed. In addition leaving the land set-aside for several years will help reduce levels of nitrate leaching.

24. However, moving your set-aside can also offer benefits, particularly if it follows cereals and the stubbles are allowed to regenerate over winter to provide feeding grounds for birds. With appropriate management, annual arable plants can be encouraged. Rotating your set-aside can also provide an effective break to reduce the populations of the more difficult weeds and combat diseases. You may like to give particular thought to rotating your set-aside land if you are in an area where birds need winter feeding grounds.

WILDLIFE BENEFITS

25. For wildlife, set-aside land is best sited next to, or linking, existing important areas such as woods and hedges, unimproved pasture, rivers, streams and heathland – especially if designated as a Site of Special Scientific Interest (SSSI) (or otherwise listed as important) and/or on land which has only recently come into agricultural production. English Nature can advise on SSSIs and other important sites. Placed next to such areas, set-aside will act as a buffer to protect them and will, in due course, become colonised by wild species from the adjacent land. Most birds will gain maximum benefit from a variety of relatively small plots of set-aside though a few (e.g. stone curlew) require larger areas. If set-aside is sited on land only recently brought into arable production there may be a rich seed bank in the soil to provide a wide range of flora.

26. If set-aside is used to link existing features, not only are new habitats created within the set-aside land itself, but corridors are created for wildlife.

NITRATE LEACHING/SOIL EROSION

27. If part of your land is in a Nitrate Sensitive Area (NSA) or a Nitrate Vulnerable Zone (NVZ), siting your set-aside on this land will help reduce nitrate leaching across the NSA/NVZ. Siting your set-aside land next to a water course will help reduce accidental run-off of pesticides and fertilisers. You could use the set-aside options instead of carrying out a Local Environmental Risk Assessment for Pesticides (LERAP). In areas prone to soil erosion, siting set-aside on particularly vulnerable fields, or parts of fields, may help reduce erosion and pesticide and fertiliser run-off.

C. RULES COMMON TO ALL SET-ASIDE

Your set-aside requirement

28. The set-aside rate for the year 2002 is 10%. From 2003 to 2006 the basic or ‘default’ rate of set-aside is 10%. The rate of set-aside in these years will be this basic rate unless a change is agreed in the light of market conditions. The Government will seek to ensure that any announcement of a change is made as early as possible before autumn sowing. You are therefore advised to take this into account when taking any decisions in advance of an official announcement.

SET-ASIDE IN MORE THAN ONE REGION

29. If you farm land in more than one production (yield) region, you must normally meet your set-aside commitment in each region. See Appendix 1 in Part I of this Guide.

SETTING ASIDE LESS THAN THE REQUIREMENT

30. Please make sure that you have calculated your set-aside requirement correctly. If you set aside less land than your requirement, the cropped area on which you receive payments under AAPS will be reduced. This reduction will be spread across your crops proportionately. **Remember that even a small shortfall in your required set-aside area will involve a significant reduction in the cropped area which is eligible for payment.**

Plot sizes

31. Subject to the following exceptions (noted below) set-aside land must cover a single area at least 0.3 hectares in size and at least 20 metres wide.

Exceptions:

- smaller areas of set-aside will be acceptable provided that they are wholly bounded with permanent boundaries such as walls, hedges or permanent watercourses – subject to such parcels being at least 20 metres wide;
- land alongside permanent watercourses must be at least 10 metres wide and cover a single area of at least 0.1 hectares.

32. You can set aside land in a single plot or in a number of smaller plots. Set-aside land can only count as a single plot if it is all within one field and you can walk from any point in the set-aside area to every other point without leaving set-aside land.

33. You can make your set-aside plot up to the minimum size by joining strips to other areas of set-aside. Permanent watercourses include estuaries, lakes, ponds, rivers, streams, canals and field ditches as defined in the DEFRA Code of Good Agricultural Practice for Water. In this context a lake is any body of water large enough to feature on an OS map and/or which forms part of a continuous watercourse. You can have a set-aside strip (or plot) that mixes 10 metre and 20 metre minimum parts in the same field to make the 0.3ha plot size, as long as the sections that are a minimum of 10 metres are alongside a watercourse or lake. If the watercourse runs through a culvert, then the culvert must not exceed 50% of the watercourse. Strips will be allowed where they are separated from the watercourse by a fence, wall, hedge (including vegetation that has grown up from inside the watercourse), banks, or belts of single trees. These strips will not be allowed where they are separated from the watercourse by open ground (other than tracks, footpaths or bridlepaths); belts of trees, which are more than two trees wide; coppices or woods.

FIELD MARGINS AND HEADLANDS

34. 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. At the same time it can extend and link existing habitats such as overgrown hedgerows and small woodlands; or provide new ones, for example, rough uncultivated strips which are vital as hunting grounds for barn owls. Setting aside of field margins also allows easier access to maintain features such as hedges and ditches.

Use of set-aside land

AGRICULTURAL USE

35. During the set-aside period the land may not be used for any form of agricultural production (including horticulture and grazing) with the following exceptions:

- the production of non-food crops under the rules in Section E;

- after 1 July, the cultivation of the land to control weeds. If you are an organic farmer see paragraphs 104-106;
- after 15 July, the preparation of set-aside land for sowing eligible crops and new grass leys or other traditional forage crops. A limited range of horticultural crops (i.e. ornamental bulbs, field grown trees and shrubs, cane fruit and strawberries) may also be sown for harvest/use after 15 January the following year;
- after 15 July, the preparation of the land for pigs (your own pigs or those of another farmer for which you are not receiving a return). This includes the placing of shelters and watertroughs 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 your RPA Processing Site so that they can establish that you will not receive any return in cash or kind.

36. If you take advantage of the exception allowing you to sow a crop after 15 July, you must remember that in no circumstances can that crop be used or harvested before the following 15 January. Farmers who do so will be subject to penalties. The UK has no power to issue derogations from this rule.

37. Remember that 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 which is subsequently destroyed.

NON-AGRICULTURAL USE

38. During the set-aside period, which runs from 15 January to 31 August inclusive, the land cannot be put to any non-agricultural use that brings a return in cash or kind to you or to anyone else, with the exception of certain local small scale charitable fund raising events. Activities which could be carried out equally well if there were a standing crop on the land may also take place on set-aside land. Your RPA Processing Site can offer advice about the limited activities which may take place without risk to payments under AAPS. However, this is a complex area and decisions are often far from straightforward. If you want to allow use of your set-aside land for non-agricultural purposes including charitable fund raising events, you must apply in writing to your RPA Processing Site, at the early planning stage, giving full details and await a decision from them before allowing any activities on your set-aside. You should allow time for changes in arrangements should it not be possible to allow the event to take place.

39. The only activity you do not need prior written approval for is grazing your own non-agricultural animal(s) (e.g. a pet horse or pony kept for riding by you or your family) provided you do not receive any return in cash or kind for it being on the set-aside land.
40. The land must not be used for any activity that is incompatible with the management rules set out in Section D. For example, you must not use the land for anything that would seriously damage the green cover when one is required and any minor damage must be repaired promptly. 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. If in doubt as to whether the operation you propose is permissible, contact your RPA Processing Site.
41. It is acceptable to encourage wild game or to shoot over the land in the way you might shoot over arable land. The land must not be used to rear birds for a commercial shoot or to establish new commercial shooting facilities that would not normally take place on arable land. You must ensure that any wild bird or game cover does not produce an agricultural or horticultural crop.

STORAGE OF PRODUCE FROM THE PREVIOUS HARVEST

42. You may use your set-aside land for the temporary storage of produce from your holding (e.g. bales of straw, sugar beet or timber awaiting collection) provided this does not significantly damage the green cover.

FEATURES ON SET-ASIDE LAND

43. During the set-aside period you must not damage, destroy or remove any of the following features which are sited on or immediately next to land which is set-aside: vernacular (traditional) buildings, stone walls, hedges, trees including hedgerow trees, watercourses, ditches, ponds, pools, lakes and archaeological remains. This rule applies under all circumstances and includes any action which could cause damage to or destruction/removal of a feature, such as herbicides spraying near hedges. Failure to comply with this rule will result in management penalties being applied (see paragraph 49).

RESEARCH

44. Research cannot be carried out on set-aside land unless the research itself is into the management of set-aside such as research into growing non-food crops on set-aside. Permission must be sought and granted in writing by your RPA Processing Site before any research commences. All the rules described in Section E concerning non-food crops must be complied with including the restrictions on the end use.

USE OF SET-ASIDE GREEN COVER AFTER THE END OF SET-ASIDE PERIOD

45. You may harvest hay or silage for your own use between 1 September and 14 January provided you have cut the cover as required between 15 July and 15 August. After 31 August you may graze the cover with your own or with somebody else's animals, provided you receive no return in cash or kind. However, you must cut the cover short before grazing and you will need to ensure that, if you wish to keep the land in set-aside in the next year, any damage to the cover caused by the animals will not prevent you from having an acceptable green cover at the start of the next set-aside year. There are certain exemptions from the obligatory cutting rule (see paragraphs 89-92).
46. From 15 January you must remove the animals from your land if you wish to return it to set-aside. If the land is not to remain in set-aside, you may graze it as you wish from 15 January. You should note that you cannot put animals onto a grass ley established, after 15 July, until after the end of the set-aside period.

D. MANAGEMENT OF SET-ASIDE LAND

Introduction

47.

You must follow the management rules in this Section unless:

- you are growing non-food crops on the land under the rules described in Section E; or
- after 15 July, you have started preparations to sow or have sown an eligible crop or a limited range of horticultural crops for harvest the following year. You must follow the management rules up to 15 July; or
- you have obtained a specific exemption in writing from your RPA Processing Site, in which case you must follow the terms of that exemption; or
- you have land in the Nitrate Sensitive Areas Scheme, the Habitat Scheme, Environmentally Sensitive Area Scheme or the woodland schemes which are counting towards your set-aside requirement as unpaid set-aside. In this case the management rules of the particular scheme will apply.

48.

It is important that you read and understand the rules for set-aside as there are financial penalties for infringements (see paragraphs 53-54 in Part I of this Guide). You may however seek exemptions from any or all of these rules for a number of reasons, or propose your own management plan (see paragraphs 100-102). You must, however, under all circumstances comply with:

- the EC rules for set-aside described in Section C, including the rules on which land can be set aside and the rules prohibiting agricultural use and restricting non-agricultural use; and
- the requirement to retain environmental features on your set-aside (see paragraph 43).

49.

You must comply with the national management rules for set-aside. Failure to do so (e.g. no green cover) will result in your payments being reduced by £1 for each 0.01 hectare on which the rules are infringed subject to a minimum of £100. In the case of environmental features, the reduction will be £100 for each feature on which the requirement is breached. Where a linear feature such as a hedge is damaged or destroyed, the penalty is £1 per metre (subject to £100 minimum). In the case of hedges this includes deliberate grubbing up and or destruction caused by any other action, including herbicide use too close to the hedge.

50. The rules set out the minimum you must do. If you wish to maximise the environmental benefits of your set-aside, the rules leave considerable scope for you to adapt them to suit your own circumstances. You do not need to manage all your set-aside in the same way. In general it will be best to follow a range of management techniques to create a range of habitats. In most cases, more intensive management will be needed in the first year any land is in set-aside to control volunteers and aggressive grass weeds.

How to establish a green cover

51. You must normally have established a green cover by the start of the set-aside period. This is required to minimise nitrate leaching. A green cover may be established through:

- allowing natural regeneration
- sowing grass
- sowing a wild bird cover
- sowing another acceptable cover.

These options are described in more detail below. If the land is already in set-aside and there is an acceptable green cover, this may be left in place. The green cover must be maintained until 1 July.

NATURAL REGENERATION

52. The aim of natural regeneration is to develop a varied flora, not dominated by crop volunteers. It will often be the most practical way of establishing a cover, and can also benefit the environment by providing feeding grounds for birds and encouraging a variety of plants. In particular, natural regeneration after cereals provides winter feeding grounds for seed-eating birds. The plant cover also encourages insects, providing food for insect-eating birds. Natural regeneration is best on light and shallow soils and land that is next to existing non-arable areas (e.g. heathland or unimproved grassland) or has recently (in the last 30 years or so) been converted from a non-arable use. A variety of plants will often appear on such land. You may want to give special consideration to natural regeneration on rotational set-aside in areas where birds associated with arable land are in decline. You might also like to think about the agronomic and environmental benefits of permanent field margins (see paragraph 34).

53. If land is to remain in set-aside for more than one season, natural regeneration is not generally suitable for heavy soils, those with a long history of intensive management or those likely to become dominated by weeds such as thistles, docks and ragwort, unless the land is carefully managed. If you get weed problems, and the pernicious weeds are unlikely to die out, or if crop volunteers and aggressive arable weeds continue to dominate, you should consider replacing the natural regeneration with a sown cover. However, even if your land is unsuitable for widespread natural regeneration, a narrow strip of natural regeneration next to the field boundary can be of environmental value.

After what crops is natural regeneration allowed?

54. Natural regeneration may be used to establish a green cover after a combinable crop excluding maize (where the herbicides used in husbandry are likely to prevent natural regeneration) and excluding legumes (which fix nitrogen and could therefore increase nitrate leaching at the end of the set-aside period). However if natural vegetation has developed following the harvest of these crops and you believe that there will be an environmental benefit from not cultivating the land you may allow the natural vegetation to develop without establishing a green cover. You may also establish a green cover by natural regeneration after herbage seed. However, if you do so you must not take a further herbage seed crop off that grass crop. You will need a written exemption if you wish to use natural regeneration after other crops. You should take care that your cover does not interfere with rotational requirements such as those associated with seed production. In most cases it will not be advisable to attempt natural regeneration following rapeseed because of the difficulties of getting rid of volunteers.

What steps must I take to establish a cover by natural regeneration?

55. After harvest you must 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. After harvest, you must not plough, deep cultivate, except to remove compacted areas such as tram lines, or treat with non-selective herbicides as this would prevent natural regeneration. However, in the first year, the land may be disced or shallow cultivated to a depth of no more than 6-7 cm to encourage germination. Any such discing/cultivation should be done before any significant growth of vegetation has taken place. If you wish to disc or cultivate (other than to replace a cover – see paragraphs 80-81) in following years (e.g. to encourage ground nesting birds), you will need to get a written exemption from your RPA Processing Site (see paragraphs 100-102).

GRASS COVER

56. Fields that are to be set-aside for more than one season and which have a long history of intensive management (ie high nutrient level, high pesticide level, predominantly grass weeds) are probably best sown to grass which can help control weeds and, over a period of years, can be cheaper to maintain than a natural regeneration cover. Grassland can also be a good way of managing archaeological sites. Slow growing grass species sown at low seed rates may allow a variety of broad-leaved and other plants to develop. If you want to create a wildflower meadow you should use local cultivars and seed of native origin – preferably local origin – where possible. (Advice is available from some of the organisations in Appendix 10 in Part I of this Guide.)

What can I sow?

57. You may choose the grass species best suited to your land and management objectives. Many of the organisations listed in Appendix 10 in Part I of this Guide will be able to offer advice. You may include broad-leaved plants and wild flowers (including legumes such as native trefoils) in the seed mixture. Wild or native species of legumes are particularly attractive to invertebrates and their input of nitrogen is far less than that of the agricultural clover cultivars or lucerne.

58. If you wish to manage your set-aside land as a feeding area for over-wintering migratory geese or other wildlife, you can ask your RPA Processing Site for authorisation to apply fertiliser to create a lush grass sward to attract the geese. You must wait for written permission before doing so. More information on establishing goose pasture is contained in the leaflet AR14 *How to Manage your Set-aside Land for Specific Environmental Objectives* which can be obtained from your RPA Processing Site.

What steps must I take to establish a cover?

59. A grass cover must normally be established either by under sowing the previous crop or by sowing a low-density grass sward as soon as possible after harvest of the previous crop. You may, however, also establish a green cover in the spring in certain circumstances:

- following development of natural regeneration over winter;
- following a late harvested crop (ie one still in the ground on 1 October);

- when a cover fails to establish (see paragraph 67);
- when replacing your cover (see paragraphs 80-81).

WILD BIRD COVER

60.

The environmental benefits of wild bird cover can be especially rich if the cover is left in place for two years or more. Wild bird cover can be left on the same area of set-aside indefinitely, but the cover must remain an unharvestable mix.

What can I sow?

61.

Wild bird cover must be a mixture of at least two crop groups (e.g. cereals and brassica) other than legumes, to be sown and maintained so that no crop group predominates. The mixture chosen must be one that is not normally grown as a mixture for agricultural or horticultural production and must be one where it would not be practicable to harvest the components separately, (ie a mixture of cereals and grass would not be acceptable). The mixture must be sown on the same land, (ie you cannot sow alternate rows of each seed). You must ensure that the mixture remains an unharvestable mix. If one part of the mix becomes predominant you must inform your RPA Processing Site and reinstate the mix either by replacing the lost components or the whole mixture as soon as possible. It is not acceptable to resow the other part of the mix by using the broadcast method; instead you must re-drill that part of the cover that has failed. If on inspection, it is discovered that the cover is a single crop group the area will be disallowed or considered to be agricultural production and the set-aside declared 'not found'.

What steps must I take to establish a cover?

62.

Wild bird cover can be established in autumn/winter prior to the set-aside period. However, it is generally best established in the spring following the development of natural regeneration over winter. If your land is such that you are unlikely to be able to establish a satisfactory wild bird cover in the spring unless you prepare the land earlier you may, exceptionally, prepare the land from 1 November and leave bare soil over winter.

63.

When destroying natural regeneration to establish your wild bird cover you should follow the rules in paragraphs 80-81 for replacing a green cover. Up to 30 kg of nitrogen per hectare may be applied to help establishment of wild bird cover and you are not required to cut the cover provided you follow the rules in paragraphs 90-92.

64. Wild bird cover is generally best left in place for at least two years although it may be destroyed after one year if you need to do so. If you do decide to leave the cover in place for more than one year, it should not be cut but left to reseed itself in the autumn (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.

OTHER ACCEPTABLE COVERS

65. Other acceptable covers are mustard (other than mustard grown for seed or grain) and phacelia.

CIRCUMSTANCES UNDER WHICH YOU DO NOT NEED A COVER

If there are crops in the ground on 1 October

66. If there are crops still in the ground on 1 October (e.g. linseed, sugar beet, stubble turnips) in the year preceding the set-aside period, you need not establish a green cover (though you may do so if you wish). If you choose not to establish a green cover you must allow the natural vegetation to develop to provide cover. To aid germination you may disc or cultivate lightly, to a depth of no more than 6-7 cm. You should not disturb the ground any more before 15 January. If a winter sown crop is sown before 1 October and it fails, and is incapable of yielding a harvest, the land may be set aside as long as it is eligible land.

If a cover fails to establish

67. If a cover fails to establish through no fault of your own (e.g. it is flooded or eaten by slugs), 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 (e.g. seed invoices) that you have done so. You should however remember that, if the set-aside is to be left in the same place, you will be required to have an acceptable cover for the following year.

Growing a non-food crop

68. If you intend to grow a spring non-food crop you should generally leave a cover (normally natural regeneration) in place over winter until you need to prepare the land for the crop. However, if the nature of your land is such that you are

unlikely to be able to establish a satisfactory crop in the spring if you leave a cover in place, you may, exceptionally, prepare the land from 1 November and leave bare soil over winter. You do not need to seek permission to do this.

Climatic reasons

69. Exceptionally, if it is not practicable to establish a green cover in the autumn for climatic reasons, you should write to your RPA Processing Site with an explanation at the time the problem occurs. If they are satisfied you could not reasonably have been expected to establish a cover in the conditions prevailing, they will give you a written exemption but you must establish a green cover as soon as reasonably possible.

SET-ASIDE FOLLOWING SET-ASIDE WHERE NO COVER WAS REQUIRED

70. You may have land which you wish to keep in set-aside for a second year and for which a cover was not required for the first year for any of the above reasons. If a predominant cover of natural vegetation has established, you need not establish a green cover.

Maintaining and managing the green cover

PROTECTION OF WILDLIFE

71. Agricultural operations can harm wildlife sheltering in the cover, nesting birds (particularly between April and mid July), over-wintering 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:
- avoid operations such as non-selective herbicide treatment, or cutting unless strictly necessary; the use of appropriate selective herbicides can be beneficial;
 - where feasible, delay these operations as late as possible (until after mid July);
 - only treat the area where the problem weed is present;
 - consider controlling problem weeds by herbicides – preferably selective ones – rather than cutting;

- avoid spraying herbicides near sensitive areas such as watercourses, hedge 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;
- if you have to mow: start to mow regularly 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

72.

If you need to take action to control aggressive weeds, crop volunteers or vigorous growth this may be done using herbicides or cutting. A sown cover can also help to reduce weed numbers, especially if it is left in place.

73.

You should pay particular attention to controlling those weeds which are specified in the Weeds Act 1959: common ragwort, broad-leaved dock, curled dock, spear thistle and creeping or field thistle. The Act allows action to be taken against anyone who occupies land from which these weeds are spreading.

74.

Non-residual herbicides, that is herbicides of a type which are primarily absorbed through the leaf and stem, may be used on set-aside land provided that, before 15 April, no action is undertaken that would be likely to destroy the green cover (except if replacing the cover (see paragraphs 80-81) or creating/maintaining a bare strip next to the crop). Non-selective herbicides must not generally be sprayed on the land before 15 April but spot applications, the use of wick applicators or the use of selective herbicides that leave the bulk of the green cover intact are allowed before that date. 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 your RPA Processing Site requesting an exemption, you must explain 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 written authorisation.

75.

If the cover is destroyed by herbicides and you wish to keep the land in set-aside for a further year, you must establish a new cover before the start of the set-aside year in accordance with the rules in this Section.

- 76.** A herbicide with approval for the appropriate crop or situation must be used. For full details contact the Pesticides Safety Directorate, Information Section on 01904 640500. In all cases you should make sure you follow the statutory conditions set out on the herbicide label. Farmers are responsible for ensuring that any herbicides used on set-aside land comply with all the relevant legislation.

For non-residual herbicides:

- Products approved for a particular crop may be used on a cover consisting predominantly of volunteers or natural regeneration of that crop e.g. a product approved for cereals can be used on cereal volunteers, one approved for grass can be used on naturally regenerated grass.
- Products approved for use on non-crop land or land not intended for cropping may be used on set-aside areas provided the land is not growing a crop for non-food use. However, any restrictions on intervals between applying the product and sowing crops must be observed.

- 77.** Residual, soil-acting herbicides are not allowed unless they have a specific label approval for use on green cover on land temporarily removed from production (e.g. set-aside areas).

- 78.** If you intend to graze the green cover after the end of the set-aside period, only herbicides approved for use on grazed land can be used. All grazing re-entry periods must be observed.

- 79.** You must not apply any other pesticides (e.g. fungicides or insecticides) to set-aside land. However, if you have plant health problems that cannot be tackled by other means you may apply to your RPA Processing Site in writing for a specific exemption to apply pesticides. You should not apply such pesticides until you have received written authorisation.

Replacing a green cover

- 80.** If you wish to replace an existing cover (e.g. for weed, pest or disease control) you may do so at any time using herbicides and/or cultivation, provided that the following three conditions are met:

- soil conditions are suitable for sowing the new cover;
- you have the seed for the replacement cover on the farm before you start to destroy the old cover; and

- the replacement cover is sown as soon as possible after destruction of the first cover.

81.

If you wish to keep the land in set-aside for a further year, you must establish a replacement cover so that an acceptable cover is in place by the start of the next set-aside period on 15 January. [Please try to avoid replacing the cover between April and July as this can harm wildlife.](#)

MANURES AND WASTES

82.

During the set-aside period, you must not apply any fertiliser, manure or organic waste to set-aside land with the exception of manure, slurry or organic waste (e.g. spoil from ditches and drains and animal bedding) from your own holding. The latter may be applied to set-aside land but only where there is an existing green cover on the land. They must not be applied at levels that would destroy the green cover.

83.

Manures or organic waste produced on your holding 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 manure or waste than are to be applied to the field on which they are being stored.

84.

You must not use set-aside land as a storage, disposal or dumping ground for any other form of waste.

85.

If you are applying animal manure, slurry or organic waste remember:

- The capacity of the green cover to take up nutrients will probably be small. Therefore applications of organic manure should be moderate and in no circumstances should they exceed 250 kg/ha/year total nitrogen. The Code of Good Agricultural Practice for the Protection of Water (PB 0587 published by DEFRA available from DEFRA Publications, Admail 6000, London SW1A 2XX. Telephone 08459 556000) gives details of the land area needed to dispose of various livestock manures.
- Some vigorous weed species, e.g. black-grass, wild oats and cleavers, are very responsive to nitrogen. To avoid encouraging these aggressive weeds, it will be prudent to 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 (e.g. during the period April to mid July).
- Keep manure away from field margins and hedge bottoms.

LIMING AND DRAINAGE

- 86.** You may apply lime and gypsum to set-aside land or carry out drainage work provided you do not disturb the soil or green cover before 1 July. Sub-soiling and piped field drainage must not be carried out before 1 July unless it is essential to prevent flooding, in which case the green cover must be replaced as soon as the work is completed. Mole draining is acceptable at any time provided soil conditions are suitable. Drainage work can be damaging to archaeological deposits on protected sites (scheduled ancient monuments) and, in such cases, drainage operations require consent from the Department of National Heritage.

PREVENTION OF TRESPASS

- 87.** In set-aside fields that are vulnerable to illegal vehicular access (ie adjacent to a road or a track), you may create a bare ploughed strip of up to five metres wide adjacent to likely points of access. Where a ploughed strip has proved ineffective you may apply to your RPA Processing Site for permission to create an alternative barrier such as a bank or ditch.

BURNING

- 88.** You must not burn any cover on your set-aside land.

Obligatory cut or destruction of the green cover

- 89.** The EC rules require us to ensure that the green cover is not put to any lucrative use. This means that you must either cut your set-aside short between 15 July and 15 August and leave the cuttings on the ground to rot, or destroy the cover completely by 31 August. This is a statutory requirement and the only exemptions are detailed below.

EXEMPTIONS TO THE CUTTING REQUIREMENT

90.

You need not follow this cutting regime or destroy the green cover if:

- you are setting aside field margins or headlands and do not graze the land or harvest any hay or silage from it after the end of the set-aside period; in such cases the cover must still be cut at least once a year (subject to the exceptions in paragraphs 91-92) to prevent reversion to scrub, but the cut may take place at any time of the year;
- you have sown a wild bird cover and wish to leave it in place for a further year and do not intend to graze the cover after the end of the set-aside period. If you wish to graze the cover after the end of the set-aside period you must comply with the cutting requirement (see paragraphs 45-46). Similarly if you do not intend to leave the land in set-aside for a further year, then you must cut or destroy the cover in accordance with the rules in paragraph 89 above.
- you have a specific exemption (paragraphs 100-102).

91.

You may apply to your RPA Processing Site for an environmental exemption from the statutory cut, for instance to leave the grass longer or to allow scrub or woodland to regenerate, provided you do not intend to use the cover (e.g. for hay, silage or grazing) at the end of the set-aside period. The RPA Processing Site will look sympathetically on all such requests. In addition:

- Up to 25% of each set-aside field 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 hedge or wood permanently uncut. No specific exemption is required.

92.

You should note that, 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.

Cutting the cover other than the obligatory cut

93.

You should avoid cutting between 1 April and 15 July when you may disturb or destroy nesting birds and prevent flowers from seeding. However, there may be circumstances when you need to cut in this period, for example:

- to encourage floral diversity particularly in a fertile soil;
- to reduce the number of crop volunteers and competitive annual weeds in the year of establishment.

In such cases you should take measures to minimise the damage to wildlife, for example:

- by commencing regular mowing early in the year to discourage nesting birds;
- by setting the mower at the maximum safe height; and
- by mowing from the centre of the field outwards or from one end of the field to the other to leave an escape route for wildlife.

94.

If you cut the cover to different lengths this will provide a wider range of habitats. Regular mowing of the short grass can help control aggressive weeds, while allowing low-growing broad-leaved plants a chance to develop. Cutting field edges with a forage harvester and blowing the material into the field can help allow an interesting flora to develop in the margins. However, long tussocky grass or scrub next to a hedge will provide cover for wildlife; short grass next to the crop can provide you with easy access, help weed control and provide sites for ground nesting birds.

95.

The cuttings must not be removed, burned or used and must be left on the ground to rot. The cuttings will cause less problems to the sward if chopped and spread. If leaving the cuttings on the ground would cause environmental problems, you may ask your RPA Processing Site for a specific exemption to remove the cuttings. You will need to explain in writing why you need to remove the cuttings and what you propose to do with them.

96.

If you have applied a non-selective herbicide to your land between 15 April and 30 June, you may not cut the green cover until 1 July.

Cultivation

97.

You must not cultivate set-aside land before July. If you are an organic farmer please see paragraph 104.

98. Cultivation before late July is potentially one of the most damaging agricultural operations for wildlife and can destroy a wide range of species. It can also cause agronomic problems by drying out the soil or allowing it to become too wet, leading to problems in preparing the seed bed and poor establishment of the following crop. Cultivation can also increase nitrate leaching. You are therefore advised to consider alternatives such as the use of herbicides to control weeds.

99. If you disturb any right of way through cultivation you must restore the path in accordance with the Rights of Way Act 1990.

Exemptions from the set-aside management rules

HOW TO APPLY FOR AN EXEMPTION

100. You may apply to your RPA Processing Site 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;
- to manage the land to encourage ground nesting birds;
- to provide alternative feeding areas for geese;
- to provide otter havens close to river banks; or
- to conduct an archaeological excavation;
- for reasons of human, plant, or animal health and safety;
- for research into different ways of managing set-aside and/or the effects of set-aside;
- for training students in agricultural techniques (e.g. ploughing) providing that the training does not include sowing of any crop.

Guidance is contained in the booklet AR14 *How to Manage your Set-aside Land for Specific Environmental Objectives* but you may also want to seek further specialist advice. You must receive written authorisation from your RPA Processing Site before you depart from any of the standard management rules for set-aside.

101. If you need an exemption from the outset in order to follow a specific management plan, we would normally expect your application to be supported by an appropriate environmental organisation, research body or the County Archaeological Officer. (see Part I, Appendices 10 and 11)

102. Please attach any supporting documentation (e.g. copies of letters from public utilities) to your letter.

TENANTS

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

Organic farmers

104. If you are an organic farmer, or are in the process of conversion, and are registered with UKROFS or an approved organic sector body, you may cultivate the land to control weeds from 1 May.

105. Organic farmers whose holdings meet, **in their entirety**, the criteria laid down in the EC Organic Farming Regulation – Regulation (EEC) No. 2092/91 and who are registered with a recognised organic certification body may grow certain leguminous fodder crops on their set-aside land. If you are unclear about the status of your holding your RPA Processing Site can provide further advice.

106. Such crops may either be grazed directly or cut for silage. Mixtures of these crops with cereals and/or grasses are also permitted, provided that the leguminous fodder crop is the predominant element in the mixture. No payment in cash or kind may be accepted if crops produced under these arrangements, or silage made from them are used outside the holding or other farmers' animals are grazed or fed on your land.

Fodder Legume crops that may be grown on set-aside land.

Scientific Name	Common Name
<i>Galega Spp.</i>	Goat's rue
<i>Hedysarum Spp.</i>	-
<i>Lathyrus Spp.</i>	Peas, vetchlings
<i>Lotus Spp.</i>	Trefoils
<i>Lupinus Spp.</i>	Lupins
<i>Medicago Spp.</i>	Medicks, lucerne, alfalfa
<i>Melilotus Spp.</i>	Melilots
<i>Onobrychus Spp.</i>	Sainfoin
<i>Ornithopus Spp.</i>	Serradella
<i>Trifolium Spp.</i>	Clovers, trefoils
<i>Trigonella Spp.</i>	Fenugreeks
<i>Vicia Spp.</i>	Field beans, vetches, tares
<i>Vigna Spp.</i>	Mung beans, cowpea

Hedge management

107.

Land that is set aside can be used to benefit the management of your hedges and their value for wildlife and the landscape. For example, it can provide access to hedges for trimming in late winter instead of autumn, so that birds and animals can use the berries and fruits as winter food. Access during the winter will also be easier for carrying out hedge restoration works such as laying, coppicing and gapping-up.

108.

You should aim for a variety of hedge heights and shapes across your farm to maximise wildlife benefits – but no established hedge should be less than 1.5 metres high. Avoid trimming when birds are nesting, and encourage flower and fruit production by not trimming every year, e.g. trim on a two or three year rotation covering a proportion of your hedges each year, or trim one side of a hedge one year and the other the next. A narrow grassy margin between the hedge and the crop will provide a habitat for predators of crop pests and provide nesting areas for birds such as partridges. Advice on hedge management and restoration, including information on grants, can be obtained from organisations such as ADAS, FWAG, and your local authority.

Special rule for multiannual and guaranteed set-aside

109.

In addition to the rules that are common to all set-aside the following applies. When establishing a grass cover (see paragraphs 56-59), you may include broad-leaved plants and wild flowers (including legumes such as trefoils) but clover, sainfoin and lucerne (alfalfa) must not be sown. This is because they are generally aggressive species that will reduce the floral diversity of the land. However, existing covers containing these species established on set-aside land in previous years may be left in place.

E. GROWING CROPS FOR NON-FOOD USE ON SET-ASIDE LAND

Growing crops for non-food use on set-aside land

110. You may grow certain crops for non-food and non-feed use on set-aside land, which has AAPS eligibility, other than land in multiannual or guaranteed set-aside. However the EC rules are very strict and before entering into this scheme you will need to ensure that you are fully aware of all the requirements because if you do not comply with them you may lose both your set-aside payment and linked crop payments and may incur further penalties. Different rules apply to those crops which potentially have food or animal feed uses than to those which do not and these rules are described separately below.

111. Oilseeds (rapeseed, sunflower seed and soya beans) grown on set-aside are subject to special restrictions as a result of the agreement between the EC and the United States. These require the EC to take “appropriate corrective action” if the by-products of these oilseeds exceed one million tonnes of soya bean meal equivalent.

SET-ASIDE MANAGEMENT RULES

- 112.** The set-aside management rules in Section D do not apply to land growing non-food crops. However you must:
- observe the EC rules on set-aside including those on agricultural and non-agricultural use of the land (see paragraphs 35-46);
 - not damage, destroy or remove any relevant features on the land (see paragraph 43);
 - observe the rules on burning of crop residues;
 - not apply organic wastes, fertilisers or lime in quantities in excess of the crop’s needs or in contravention of the Code of Good Agricultural Practice for the Protection of Water; and
 - if necessary, use herbicides with a specific label or off-label approval for the crop in question;
 - observe the minimum separation distance rules for neighbouring high and low erucic acid rapeseed crops (see Appendix 5 in Part I of this Guide).

- 113.** If you are sowing a spring crop, you should retain a green cover over winter where possible (e.g. by allowing natural regeneration of the previous crop). If you destroy a non-food crop before harvest you must inform your RPA Processing Site and follow their instructions.

Crops for which there is no food or animal feed use (as listed in Table 2)

- 114.** A limited range of crops with no food or animal feed use may be grown on set-aside land. These crops are listed in Table 2. The rules are simpler than for crops in Table 1. Contracts are not required and you must simply undertake to use the crop for one of the acceptable non-food purposes which are set out in Table 3.
- 115.** Short rotation coppice (SRC) and miscanthus are supported under the Energy Crops Scheme, part of the England Rural Development Programme. Planting grants are available for crops on set-aside land and SRC and miscanthus growers receive £1000 and £920 per hectare respectively. These payments will not affect eligibility for the set-aside payment. For further information contact the RPA at Crewe.
- 116.** The environmental impacts of energy crops are considered as part of the assessment of applications by the Forestry Commission. Prior to making an application you will need to consider the guidance set out in the scheme literature and in the good practice guidance prepared by DEFRA, the Forestry Commission and industry. For further information contact the RPA at Crewe.
- 117.** You are allowed to set aside up to 100% of the area of your AAPS claim provided **all** your set-aside is used for the production of multiannual biomass crops (e.g. short rotation coppice).

OBLIGATIONS ON THE FARMER

- 118.** There is no need to have a contract before planting an eligible crop listed in Table 2 and delivery notification form (IACS 9) is not required. However, when completing an area aid application, you will have to give an undertaking that the crop is intended for an appropriate non-food use and that you understand that breach of this undertaking will result in penalties. (There will, however, be no penalties within AAPS if the farmer cannot find a market for the crop provided he does not use it for food or animal feed.)

- 119.** In your area aid application you will have to identify the fields planted to these crops, the crops grown on these fields, the length of the crop cycle and the frequency of harvesting.

Crops with food or animal feed uses (as listed in Table 1)

ELIGIBLE CROPS

- 120.** A wide range of crops with food or animal feed uses can be grown for non-food use on set-aside land. These are listed in Table 1. Not all the crops in Table 1 have readily apparent non-food uses. For instance, sugar beet, Jerusalem artichokes and chicory can be grown on set-aside land provided the conditions set out next to their names in Table 1 are met but there is no set-aside payment on any set-aside land used to grow these three crops. Certain other crops which cannot be used for human or animal consumption can also be grown and these are listed in Table 2.

PERENNIAL/BIENNIAL CROPS

- 121.** You may grow perennial or biennial crops as a non-food crop on your set-aside land provided they are listed in Table 1 for an end use in Table 3. Please note that 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. If this continuity is broken, e.g. if you lift the crop from the ground, or if you fail to include the area on your IACS form for each year, this would constitute a break in the contract. Then the details in paragraph 131 reapply. In other words, 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 dates due. In these cases the dates for concluding and lodging of contracts referred to in paragraph 125 apply in the year the crop is sown. For example, if you sow a crop of Roman camomile in May 2002 you must conclude and lodge your contract by 15 May 2002. The duration details on the contract must clearly state the numbers of years that the crop is to remain under contract as a non-food crop on set-aside land. Contracts for multiannual harvesting can be activated each year provided, on lodgement, that the contract specified that this would be the case. For further information contact RPA (formerly IBEA) at the address shown at Appendix 9 in Part I of this Guide.

PERMITTED END-USES

122. The crops grown must be processed within the EC into a non-food product listed in Table 3. 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. 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. The Rural Payments Agency (RPA) (formerly IBEA) is responsible for assessing the relative values, and you must contact the RPA if you have any doubt about the relative values of your crop.

THE CONTRACT

123. If you wish to use your set-aside land to produce any of the crops listed in Table 1, 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 processor. You must retain a copy of the contract for submission with your area aid application. If you are unable to produce a signed (by both parties) and dated copy of your contract, the set-aside land concerned will not be regarded as eligible. You may lose both your set-aside payment and related payments for compensatory crops, and IACS penalties may also have to be applied.

124. The requirement to provide a valid contract is your responsibility and it must contain the following:

- the name and address of all the contracting parties;
- the duration of the contract;
- the species of each raw material (crop) concerned and the area sown to each species;
- for each species, the forecast yield per hectare and the total forecast quantity to be harvested (in tonnes). The forecast yield must fall within a yield range made available by the RPA (formerly IBEA) to interested parties including collectors and first processors;
- the principal end-use of the raw material, each end-use being in conformity with the requirements of articles 3(1) and 13(3) of Regulation (EC) 2461/1999;
- an undertaking by the farmer to deliver all the harvested crop to the

collector/first processor and the collector/first processor to take delivery of all of it and use an equivalent amount of material within the EC to make one or more of the end products listed in Table 3; and

- the forecast quantity of by-products to be produced not destined for human or animal consumption. This only applies to contracts relating to rapeseed, colza, sunflower seeds or soya beans falling under CN codes ex 1205 00 90, 1206 00 91, 1206 00 99 or 1201 00 90.

125. You must ensure that the valid, signed (by all parties) contract is lodged by the collector or first processor with the RPA (formerly IBEA) by the following dates:

- a) for crops sown between 1 July and 31 December inclusive (winter sown crops), by 31 January in the following year;
- b) for crops sown/to be sown between 1 January and 30 June inclusive (spring sown crops), by 15 May.

126. If the land under contract is transferred to another IACS applicant you must contact the RPA (formerly IBEA) as such changes will affect your non-food contract.

127. The collector/first processor must deposit with the RPA (formerly IBEA) a security equal to 250 euros (€) per hectare for the area covered by the contract by 15 May.

AMENDMENT OF THE CONTRACT

128. The contract (whether for winter or spring sown crops) may be amended or terminated (with the agreement of the contracting parties) at any time up to and including the final date for the amendment of the area aid application. Collectors and first processors must deposit a copy of the amended or terminated contract with the RPA (formerly IBEA) by the final date allowed for the amendment of the area aid application. The security lodged with the RPA will be adjusted in line with any amendments.

129. However, if the contract is to be amended or terminated after you have submitted your area aid application but by the final date for amending the area aid application, you must inform your RPA Processing Site. The collector/first processor must inform RPA (formerly IBEA) to enable all necessary checks to be carried out.

REDUCTIONS OF AREA UNDER CONTRACT

130.

The following action should be taken as appropriate:

- if you amend your contract before 15 January and the contract has been lodged, your RPA Processing Site does not need to be informed but you should tell the RPA (formerly IBEA);
- if you amend your contract on or after 15 January and the land is going to remain in set aside, you must inform both your RPA Processing Site and the RPA (formerly IBEA); or
- if you amend your contract on or after 15 January but before you have lodged your IACS application, and if the land is not to remain in set-aside, your RPA Processing Site does not need to know but you must inform RPA (formerly IBEA); or
- if you amend your contract on or after 15 January but after you have lodged your IACS application, and if the land is not to remain in set-aside, you should inform your RPA Processing Site and you must inform the RPA (formerly IBEA).

INABILITY TO PROVIDE CONTRACT QUANTITY

131.

If, for any reason, it becomes clear before harvest that you are unable to provide all or part of the crop specified in the contract (even though the representative yield is likely to be met for those crops subject to one) you are advised to amend your contract (in consultation with your collector/first processor). In such cases you must inform your RPA Processing Site and RPA (formerly IBEA). If the RPA Processing Site agrees to a reduction to the raw material to be produced you and the collector/first processor named on the contract will need to submit Form NFC7 to RPA to record the amendment when you submit your IACS 9.

132.

In the event that the proposed amendment to the contract would lead to a reduction in the area of land covered by the contract, then if the land is still to count as set-aside, it must be returned to fallow and the crop must be destroyed (it cannot be sold, given away or used in any way). In this instance you must explain to your RPA Processing Site how you will dispose of the crop. No action should be taken until written permission is received. You must also comply with any special conditions set by the RPA (e.g. it may be necessary for the disposal to be supervised).

133. If your crop is subject to a representative yield and you fail to deliver at least that yield then you must contact your RPA Processing Site. In exceptional circumstances a shortfall of up to 10% may be permitted. A further shortfall can be considered by your RPA Processing Site where there is a valid reason, but only where your contract has been amended to allow a lesser amount of raw material than that specified in the original contract (see paragraphs 128-129). However, if there are no exceptional circumstances and you have complied with the rules of the scheme in all other respects, you may make up the shortfall from raw material obtained from elsewhere.

134. If you fail to deliver the amount of raw material required under this scheme for the crops listed in Table 1, then an area of set-aside equal to the percentage shortfall will be deemed not found and penalties may be applied. You might be able to avoid penalties if you make up the shortfall from raw material obtained from elsewhere. If you choose to do this you must inform your collector/first processor immediately and the collector/first processor must inform the RPA (formerly IBEA) that the contract is not yet complete.

REPRESENTATIVE YIELDS FOR OILSEEDS

135. The EC rules require the UK to set representative yields for oilseeds other than HEAR varieties. Growers of oilseeds other than HEAR must, in addition to delivering to their collectors/first processors the entire crop harvested, ensure that this delivery equates at least to the representative yield appropriate to the crop, even if the amount is greater than the yield in the contract. All growers who have claimed a non-food crop on set-aside will be sent notification of these representative yields, which are calculated by DEFRA, with their IACS 9 form.

HARVEST

136. Once harvested you must deliver the entire crop to the collector/first processor. Any shortfall after harvest due to deterioration or loss in storage must be made up from other sources. Delivery may take place on farm if the collector/first processor takes full legal responsibility for the crop at that stage but the crop must be kept separate from any other harvested material at all times until an accurate weight is established. Your RPA Processing Site will require an accurate assessment of the weight delivered. This may be done by volumetric assessment initially, except not for those crops subject to a representative yield. Where volumetric assessment is used, the crop must be kept separate from other crops until an accurate weight is established on a weighbridge approved by the local authority.

AFTER DELIVERY

- 137.** After delivery you must send a delivery declaration (IACS 9) form to the RPA Processing Site declaring the total quantity harvested, by species, and the person or persons to whom it has been delivered. A separate IACS 9 is required for each contract. RPA Processing Sites will send IACS 9s to all applicants with non-food crops on set-aside land. However, please remember that it is your responsibility to obtain and complete an IACS 9. If you have not already received your IACS 9 please contact your RPA Processing Site. **Late submission of your IACS 9 may result in a penalty being applied.**

PAYMENT

- 138.** Payments will be made at the normal set-aside rate once your RPA Processing Site has received the IACS 9 and the collector/first processor has fulfilled their various commitments, including confirming to the RPA (formerly IBEA) receipt of the entire crop by means of form NFC 2. Penalties may be applied to both collector/first processor and the farmer if the forms are late. It is important therefore that collectors/first processors send in their delivery declaration form(s) as soon as possible and at the latest by 9 February. Failure to do so will result in delays in making any set-aside payment due. ***You must inform your collector/first processor when the final load of any contract has been delivered.***

ROLE OF THE COLLECTOR/FIRST PROCESSOR

- 139.** This booklet does not describe in detail the rules that apply to the collector/first processor. For further information contact the RPA (formerly IBEA) at the address shown in Appendix 9 in Part I of the Guide.

Table 1: Crops which can be grown on set-aside land for use in the manufacture of end products set out in Table 3

In the Tables 1 and 2 an ‘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.

CN CODE	BRIEF DESCRIPTION
0602 90 59	Other outdoor plants (e.g. Kenaf, <i>Hibiscus cannabinus L.</i> and <i>Chenopodium</i>) with the exception of <i>Euphorbia lathyris</i> , <i>Sylibum marianum</i> and <i>Isatis tinctoria</i>
0701 90 10	Potatoes
ex 0713 10 90	Peas (<i>Pisum sativum L.</i>) other than those for sowing
0713 50 00	Broad beans other than those for sowing
ex 0714 90	Jerusalem artichokes (provided that it does not undergo the process known as hydrolysis as defined by Commission Regulation (EEC) No 1443/82, either in its natural state or as an intermediate product such as inuline, or as a by-product such as oligo fructose, or as any co-product)
0810 30 10	Blackcurrants
ex 0810 90 85	Fruits of the species <i>Aronia arbutifolia</i> , sea buckthorn and elder
0904 20	Fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i> , dried or crushed or ground
0909	Seeds of anise, badian, fennel, coriander, cumin or caraway
0910 50 00	Curry
0910 99 10	Fenugreek seed
ex 0910 99 91	Spices other than mixtures
ex 0910 99 99	Spices other than mixtures
1001 90 99	Spelt, common wheat and meslin other than for sowing
ex 1002 00 00	Rye other than seed
1003 00 90	Barley other than seed
1004 00 00	Oats other than seed
1005 90 00	Maize (corn) other than seed
1007 00 90	Grain sorghum, other than hybrids for sowing
ex 1008 10 00	Buckwheat other than seed

Table 1: (continued)

CN CODE	BRIEF DESCRIPTION
ex 1008 20 00	Millet other than seed
ex 1008 90 10	Triticale other than seed
ex 1008 90 90	Other cereals other than seed
1201 00 90	Soya beans other than for sowing
1202 20 00	Shelled ground nuts
ex 1204 00 90	Linseed other than for sowing but intended for uses other than fibre production
ex 1205 00 90	Rape or colza seeds other than for sowing (only those types referred to in Article 4(1), 4(2) (a, b & e) of Commission Regulation (EC) No 2316/99)
1206 00 91	Sunflower seeds other than for sowing
1206 00 99	
1207 30 90	Castor oil seeds other than for sowing
1207 40 90	Sesamum seeds other than for sowing
1207 50 90	Mustard seeds other than for sowing
1207 60 90	Safflower seeds other than for sowing
1207 99 99	Other oil seeds and oleaginous fruits other than for sowing
ex 1209 29	Bitter lupin
ex 1211	Plants and parts of plants (including seeds and fruits), of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes, other than lavender, lavandin and sage
1212 91	Sugar beet (provided that sugar, as defined by Commission Regulation (EEC) No 1443/82 is not produced from it, either as an intermediate product, co-product or by-product)
1212 99 10	Chicory roots (provided that it does not undergo the process known as hydrolysis as defined by Commission Regulation (EEC) No 1443/82 either in its natural state or as an intermediate product such as inuline, or as a by-product such as oligo fructose, or as any co-product)
1214	Swedes, mangolds, fodder roots, hay, lucerne (alfalfa), clover, sainfoin, forage kale, lupins, vetches and similar forage products

Table 1: (continued)

CN CODE	BRIEF DESCRIPTION
Ex 5302 10 00	True hemp, raw or retted for processing into products not covered by Regulation (EC) No. 1673/2000.
Chapter 14	Vegetable plaiting, stuffing or padding materials, or those used in brooms or brushes; vegetable products not elsewhere specified or included (e.g. Broomcorn (<i>Sorghum vulgare var. technicum</i>))

Table 2: Crops which may be sown on land subject to set-aside provided that they are intended for the manufacture of the products listed in Table 3.

In the Tables 1 and 2 an ‘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.

CN CODE	BRIEF DESCRIPTION
ex 0602 90 41	Short rotation forest trees with a harvest cycle of 10 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 Combined Nomenclature, excluding all those which can be used for human or animal consumption
ex 0602 90 51	Outdoor multiannual 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 Combined Nomenclature
ex 0602 90 59	<i>Euphorbia lathyris</i> , <i>Sylibum marianum</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.

Table 3: End products which are permitted, other than for human or animal consumption, made from the raw materials in Table 1 and Table 2

All products of the combined nomenclature in Chapters 25 to 99 and:

- all of the products falling within CN Chapter 15 which are intended for uses other than for human or animal consumption;
- CN code 2207 20 00 intended for direct use in motor fuel or for processing for use in motor fuel;
- packaging material falling within 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 according to the provisions of Article 15(4) of Commission Regulation (EC) No. 2461/1999;
- 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 Table 1 and products derived therefrom by an intermediate process and used as fuel for energy production;
- all products mentioned in Table 2 and their processed derivatives 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 drainage and cleaning of plants;
- all products referred to in Commission Regulation (EEC) No 1722/93, as amended by Commission Regulation (EC) No. 87/99 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 1010/86, as amended by Council regulation 1148/98 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.

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DEFRA

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