



SCOTTISH EXECUTIVE

Environment and Rural Affairs Department

ARABLE AREA PAYMENTS SCHEME 2003

Explanatory Booklet

CONTENTS

	Paragraph
A. The Scheme - Summary	1-9
Introduction	1-2
Rule Changes for 2003	3
Yield Regions	4-6
Application	7-9
Checklist: Key Dates	Pages 7-8
B. Area Payments: General Rules	10-45
General Rules	10
Land Eligibility	11-25
What is Eligible for AAPS Aid	11-14
Special Conditions for Flax and Hemp	15-17
What is Ineligible for AAPS Aid	18-22
Exceptions to the Definition of Ineligible Land	23
Ineligible Land in Linseed in 1992 or 1993	24
Switching Eligible Land for Ineligible Land	25
Field Margins	26-27
Eligible Crops	28-30
Sowing Dates	31-34
Husbandry Standards	35-40
Establishment and Maintenance of Crops	35-37
Crop Failures	38-40
Minimum Plot and Application Sizes	41-42
Penalties	43-45
C. Set-Aside	46-158
Your Set-Aside Requirement	46-52
Eligibility of Land for Set-Aside	53-55
Multi-Annual Set-Aside	56
Additional Voluntary Set-Aside	57
Structural Set-Aside	58-62
Woodland Schemes	58-60
Habitats Scheme	61-62
Growing Organic Fodder Legumes on Set-Aside Land	63-68
Short Rotation Coppice and Other Biomass Crops on Set-Aside	69
Use of Set-Aside Land during the Set-Aside Period	70-76
Agricultural Use	70-72
Non-Agricultural Uses	73-75
Research	76

Management of Set-Aside Land	77-119
Management of Set-Aside Land	77-85
Existing Cover	86
Natural Regeneration	87-88
Sown Green Cover	89-91
Wild Bird Cover	92-93
Type of Wild Bird Cover to Sow	94-95
Management of Wild Bird Cover	96
Bare Fallow	97
Compulsory Cut or Destruction	98-101
Exemptions from the Compulsory Cutting Requirement	102
Other Exemptions	103
How to Apply for an Exemption	104
Tenants	105
Weed and Volunteer Control	106-108
Herbicides	109-113
Use of Pesticides (other than Herbicides)	114
Legislation	115-116
Cultivation	117-118
Replacing a Green Cover	119
Miscellaneous Rules for Set-Aside Land	120-129
Manure and Wastes	120-123
Fertilisers	124
Liming	125
Drainage	126
Prevention of Illegal Access	127
Burning	128
Storage of Produce from the Previous Harvest	129
Use of the Land at the End of the Set-Aside Period	130-133
If You Wish to Leave the Land in Set-Aside	130-131
If You Wish to Sow a Crop on the Land for Harvest the Following Year	132-133
Growing Crops for Non-Food Use on Set-Aside Land	134
General Rules	135-136
Management Rules for Non-Food Set-Aside	137-154
Management Rules for Non-Food Set-Aside	137-139
Permitted End-Uses	140
Perennial/Biennial Crops	141
The Contract	142
Amendment of the Contract	143-145
Reductions of Area Under Contract	146
Inability to Provide Contract Quantity/Reduction of Area under Contract	147-149
Harvest	150
Representative Yield	151-152
After Delivery	153
Payment	154

	Paragraph
Crops with No Food or Animal Feed Use Listed in Table 2	155-158
Eligible Crops	155-156
Permitted End-Uses	157
Obligations on the Farmer	158
D. Relationship with Other Schemes	159-161
Relationship with Other Schemes	159
Seed Certification	160
Seed Production Aid	161
E. Records	162-166
F. Appeals and Complaints	167-170

Appendix 1 How to calculate your set-aside requirement for 2003

Appendix 2 Small Producers

Appendix 3 Base Area (Production Ceiling) and Payment Rates

Appendix 4 Special conditions for rapeseed, linseed, flax and hemp

Appendix 5 Applicants with land in more than one yield region

Appendix 6 Selecting your Set-Aside Land

Appendix 7 Non-Food Set-Aside – Tables 1-3: CN Codes and Descriptions

Appendix 8 Multi-Annual Set-Aside

Appendix 9 SEERAD Area Offices and Other Government Contact Points

A. THE SCHEME - SUMMARY

INTRODUCTION

1. The Arable Area Payments Scheme (AAPS) is a voluntary scheme, introduced as part of a series of measures reforming the Common Agricultural Policy of the European Union (EU). It offers area payments on eligible land to growers of cereals, linseed, oilseeds, proteins, flax and hemp.

2. This Booklet describes the main AAPS rules and gives a checklist of key dates on pages 7 and 8. You should read this Booklet carefully and also those Appendices which apply to you. You must not rely on this summary alone as a guide to the AAPS rules. If you have any questions on the AAPS rules, or do not understand anything in this Booklet, contact your local Area Office. For detailed advice on your **business** decisions, you should seek professional advice. Staff at your local Area Office, or at the Department's HQ in Edinburgh, are **not allowed to give** this sort of detailed advice.

RULE CHANGES FOR 2003

3. The rule changes for 2003 are as follows:-

- Modulation will be applied to your payments at the rate of 3.5%. (See paragraphs 7 and 8 of Appendix 3 for a full explanation of this.)
- You are reminded that it is no longer necessary to sample farm-saved OSR. This requirement was repealed with effect from AAPS 2002. The Department has written to all approved seed samplers informing them of this change. **Please note that the other current rules on farm-saved seed still apply - see Appendix 4.**
- From 2003, the 5% limit (by weight) on the use of legumes in set-aside green cover mixtures no longer applies; and
- From 2003 there are no special management rules for multi-annual set-aside. Multi-annual set-aside may be managed in accordance with (a) the normal set-aside management rules or (b) in accordance with a management plan agreed with your local Area Office (see Appendix 8).

YIELD REGIONS

4. Scotland is subdivided into two yield regions, e.g.

- (a) the Less-Favoured Area (LFA), comprising land classified as Disadvantaged or Severely Disadvantaged; and
- (b) the non-LFA, comprising all other utilisable agricultural land.

Payment rates are fixed on a regional basis using historic average yields. For details of the other parts of the UK, you should contact the relevant Agriculture Department.

5. In order to qualify the whole of the cropping area claimed for AAPS aid, producers in the Scottish LFA and in the non-LFA should meet the following minimum requirements:-

Main Producers

- Claiming more than 17.66 hectares in the LFA, then set-aside obligatory requirement 10%
- Claiming more than 16.23 hectares in the non-LFA, then set-aside obligatory requirement 10%

Small Producers

- Claiming less than the areas specified above, then set-aside obligatory requirement NIL
(Please see Appendix 2 for the rules on small producers.)

These areas apply to Scotland only – farmers with land in more than one yield region should see Appendix 5.

6. This Booklet describes the rules in Scotland only. If you are farming elsewhere in the UK, please contact the relevant Agriculture Department (Appendix 9) for a copy of their Booklet.

APPLICATION

7. If you wish to apply for AAPS aid in 2003 you will need to complete an Area Aid Application (AAA) in Spring 2003 under the Integrated Administration and Control System (IACS). Further guidance and application forms will automatically be sent to all producers who submitted an AAA in 2002 (except for those who merely registered their land), provided that our records show that the holding has not changed hands since then. The issue of this material will be announced in the Press and additional copies will be available from local Area Offices. It is entirely your responsibility to obtain, correctly complete and return an AAA to your local Area Office so that it is received by the 15 May penalty free deadline.

8. We may inspect your land to verify the on-farm position when we will require access to all relevant documents. Failure to permit an inspection could result in the loss of AAPS (and, if appropriate, livestock) aid and you might also risk prosecution. Checks may include the use of satellite imagery or aerial photography. For this purpose, we may need to pass some of the information you provide to SEERAD agents. We may also pass information to SEERAD agents for the purpose of monitoring and evaluating the scheme. Any information which we provide will be treated in strictest confidence by the SEERAD agents.

9. This Booklet has been produced with care and in good faith. It does not, however, represent a definitive statement of the law. The relevant EU and Scottish legislation provide that definitive statement.

CHECKLIST: KEY DATES

2002

Before sowing any oilseed rape	Ensure that you have invoices, any relevant contracts, seed certification labels; and keep these available for inspection.
1 October	If crops were still in the ground on the fields which you intended to set aside, you need not establish a green cover until it is practicable to do so.

2003

15 January	Start date for set-aside. You must not attempt to harvest any crops still remaining in the ground or graze the land.
31 January	Last date for signing and lodging with the Rural Payments Agency (RPA) your non-food set-aside contracts for crops sown between 1 July and 31 December 2002.
15 May	Penalty free deadline for lodging your Area Aid Application (AAA).
15 May	Last date for signing and lodging with RPA your non-food contracts for spring crops (sown between 1 January and 31 May 2003).
31 May	You must have sown by this date any crops on which you want to claim arable area payments.
9 June	Final deadline for lodging your AAA if claiming AAPS aid.
Early July	The representative yields for non-food set-aside crops will be published.
On or after 15 July	You may prepare, and sow, your 2003 set-aside land for crops intended for harvest after 15 January 2004. See detailed rules at paragraph 132.
15 July-15 August	Mandatory period for cutting any green cover remaining on your set-aside land.
31 August	This is the end of the set-aside period. However, there are still controls on using any remaining green cover.

Early November Announcement of any overshoot of the base area or penalties on oilseeds payments.

17 November AAPS payments start.

2004

14 January End of controls on use of green cover on 2003 set-aside land.

31 January Normal deadline for AAPS payments to be made (except non-food set-aside).

9 February Last date for submission of IACS 9 Forms in respect of non-food crops on set-aside land.

31 March Normal deadline for non-food set-aside payments to be made.

B. AREA PAYMENTS: GENERAL RULES

10. All farmers correctly claiming AAPS payments will be paid at the rate relevant to the eligible crop that they grow. This section sets out the general rules for claiming on eligible arable crops. It sets out:

- which land is AAPS eligible/ineligible;
- which crops are eligible;
- what sowing dates apply;
- what husbandry standards are required;
- the minimum plot and application sizes; and
- the types of penalties

LAND ELIGIBILITY

What is Eligible for AAPS Aid

11. It is the use which was being made of the land at **31 December 1991** that determines whether it is AAPS eligible, i.e. land that was in arable production or in temporary grass as part of an arable rotation. New occupants should ensure that they know which land is AAPS eligible. They may also need to obtain from the previous occupier copies of relevant IACS documentation, including maps, field numbers and areas, and cropping records. **If you are not sure whether your land meets the eligibility criteria, you are strongly advised to check with your local Area Office.**

12. Land which was in the 5-year Set-Aside Scheme in 1991/92 is eligible, including land in the woodland and non-agricultural use options, provided that it meets the other AAPS conditions, including the rules about the use which can be made of set-aside land. Land which was in the temporary One-Year Set-Aside Scheme in 1991/92 is also eligible.

13. Land on which area payments were legitimately claimed under the transitional 1992 EC Oilseeds Support Scheme is eligible.

14. Since 1996, land growing the following multi-annual crops on 31 December 1991 has been eligible: artichokes, asparagus, rhubarb, raspberries, blackberries, mulberries, loganberries, blackcurrants, whitecurrants, redcurrants, gooseberries, cranberries, bilberries and other fruits of the genus *vaccinium*. This additional eligibility is not backdated to 1995 and before for the purpose of AAPS payments.

Special Conditions for Flax and Hemp

15. To be AAPS eligible, all crops must normally be grown on land meeting the eligibility requirements outlined above. As an exception, aid for fibre flax and hemp (but no other crops) may be claimed where these crops are grown on land on which fibre flax or hemp was grown and received payment under the Fibre Flax and Hemp Subsidy Schemes in 1998, 1999 or 2000.

16. If you claim for flax or hemp on land which is eligible **only** for this purpose, then the corresponding 10% obligatory **set-aside requirement must be met from land which is eligible only in respect of flax and hemp**. If you claim for flax or hemp on land which meets the normal eligibility requirements, the set-aside requirement must also be met from land which meets the normal eligibility requirement. **Please note that you cannot claim any voluntary set-aside on land which is eligible only for flax and hemp**.

17. You may **not** use land which meets the normal eligibility requirements to fulfil the set-aside requirement for land that is only eligible for flax and hemp.

What is Ineligible for AAPS Aid

18. The eligibility restrictions, which apply throughout the EU, are specifically intended to prevent more land coming into subsidised arable production. You can grow arable crops on ineligible land but you cannot claim AAPS aid, **including set-aside**, on that land. **If you do claim on ineligible land, you may lose part or all of your AAPS payments**.

19. **Permanent grass** includes all moorland, rough grazing, pasture and any areas which had been in grass for 5 years or more at 31 December 1991. Even if the grass was reseeded during that period, grazed or cut for hay or silage, it counts as permanent grass. However, temporary grass, i.e. land sown with grass – excluding direct reseeded – between 1 January 1987 and 31 December 1991, is AAPS eligible.

20. **Permanent crops** means any crops which occupy the soil for a period of 5 years or more and yield crops over several years. This would normally include nursery crops, trees and bushes for the production of fruit and berries, vines, hops and crops grown under glass or in poly tunnels. It does not include strawberries.

21. **Woodland** includes all commercial and amenity woodland and rotational coppice.

22. **Non-agricultural** use includes all land used for purposes other than for agriculture unless it was a condition of any planning consent that the land be returned to agricultural use and the land was previously in agricultural use other than permanent grass, permanent crops or woodland.

Exceptions to the Definition of Ineligible Land

23. Exceptionally, if you can prove that land which falls within the normal definition of permanent grass or permanent crops formed part of a normal arable rotation as at 31 December 1991, that land may be AAPS eligible. If you believe that you have land in this category, you should write to your local Area Office with full details of the land and documented evidence of your past cropping plans. **Unless, and until, your Area Office informs you in writing that any such land is eligible, you must not assume that it will be eligible or claim AAPS aid on it.**

Ineligible Land in Linseed in 1992 or 1993

24. Ineligible land sown with linseed in 1992 or 1993 remains ineligible. If you plan to claim linseed aid in 2003, the land must meet the basic AAPS eligibility criteria.

Switching Eligible Land for Ineligible Land

25. Subject to certain conditions, one-to-one switches of eligible land for ineligible land may be allowed for agronomic, plant health, environmental or compulsory purchase reasons, provided that there is no increase in eligible land as a result. A separate leaflet and application form (IACS 21) are available from your local Area Office.

Field Margins

26. The field boundary is considered to be the area between the recognised centre of the boundary (the fence or midpoint of a hedge, ditch etc) and the edge of the crop, set-aside or forage area. The current IACS Regulation allows you to claim the total Field Identification System (FIS) area of a field where it is fully utilised according to customary agricultural practice.

27. AAPS aid will normally only be paid on field margins where the distance from the centre of the boundary to the edge of the crop is no more than 2 metres at all points **throughout** its length. However, there is a special EU provision whereby you may exceed the 2 metres limit and base your AAPS claim on **full** field areas (including any traditional field margins, i.e. hedges, walls and ditches) where these have been an important characteristic feature of the landscape and managed under good agricultural practice. This means that for field margins beyond 2 metres to be acceptable, they would have to have been in place prior to 1988 and managed as part of normal agricultural practice. If the width of any field margin found at inspection is in excess of 2 metres and does not meet the above criteria, then that area **in its entirety** will be deducted from your claim and penalties applied as appropriate. Please note that if a field boundary is moved and the field margin becomes an internal part of the new field, it should be deducted from the area on which cropping payments or set-aside payments are made. If you have any doubt about your eligibility to take up this option, please contact your local Area Office.

ELIGIBLE CROPS

28. The following crops sown for harvest in 2003 are eligible for AAPS aid provided that you observe the Scheme rules:

Cereals

- any cereals

Linseed

- for oil production

Oilseed rape

- There are special requirements for oilseed rape (see Appendix 4)

Proteins

- peas (but not those intended for human consumption, i.e. vining)
- beans
- sweet lupins

Flax

- grown for fibre

Hemp

- grown for fibre

29. In general, AAPS crops are eligible for payment:

- whether they are grown for grain, seed or fodder;
- when grown for fodder, whether as a mixture or single stand;
- at the appropriate rate when grown for fodder as a single stand;
- at the (lower) cereals rate when grown for fodder as an eligible arable silage mixture, e.g. cereals and peas; and
- when grown for fodder as arable silage and undersown with grass when it is sown separately.

30. Arable silage mixtures consisting of AAPS eligible and AAPS ineligible crops will **not** receive AAPS aid.

SOWING DATES

31. All crops must be sown by 31 May 2003 except hemp, which must be sown by 15 June 2003. The EC Commission will only allow an extension beyond these sowing dates in exceptional circumstances.

32. If you claim AAPS aid on land which you are prevented from sowing by 31 May owing to exceptional circumstances you must **write immediately** to your local Area Office explaining the circumstances and seeking a written exemption enabling you to sow later. Exemptions from the sowing date can be granted only if:

- the circumstances which prevented you from sowing are held by the Department to be exceptional and could not reasonably have been foreseen; **and**
- it is still possible to sow and grow the crop after 31 May in accordance with good agricultural practice.

33. If the exceptional circumstances continue to prevent you from establishing the crop in accordance with good agricultural practice locally, you may still be eligible to receive AAPS aid on the crop which you would otherwise have sown. You **must** contact your local Area Office as soon as possible in such cases, confirming details **in writing**.

34. Information about the base area (production ceiling) and payment rates is given in Appendix 3.

HUSBANDRY STANDARDS

Establishment and Maintenance of Crops

35. Under the EU rules, all crops must be sown in line with locally recognised standards, i.e. normal agricultural practice, and maintained until at least the beginning of flowering and until at least the relevant date for the crop as set out in paragraph 36, unless harvesting at full agricultural maturity takes place earlier. This means that the land must be prepared and seed sown in a way which could normally be expected to produce a marketable crop. Also, the crop must be maintained until flowering even if this is after the relevant date shown in paragraph 36.

36. The relevant date for each crop is:

Cereals: until at least the beginning of flowering

Oilseeds: 30 June, or flowering if later

Protein Crops: 30 June, or flowering if later

Linseed: 30 June, or flowering if later

Flax: 30 June, or flowering if later

Hemp: crops of hemp must be maintained until at least 10 days after the end of flowering. However, crops may be harvested after flowering provided the crop has been sampled or you have been notified that the crop is not to be sampled. You must thus await notification before the crop may be harvested.

37. You are reminded that legislation exists which controls the production, certification and marketing of certified seed and the use of farm-saved seed. It is illegal to purchase seed that has not been certified and it is also a legal requirement that royalties are paid when farm-saved seed of eligible varieties is sown. The British Society of Plant Breeders Ltd administers the arrangement for the collection of royalties for protected varieties from both certified and farm-saved seed. If you have any issues about farm-saved/certified seed you should contact your local Area Office in the first instance.

Crop Failures

38. You should note that pre-flowering/30 June crop failures, as appropriate for the crop, can now be paid in full provided the Department is satisfied that the failure is as a result of “exceptional weather conditions” and that the crop was sown according to good agricultural practice. In certain circumstances, crop failures resulting from pest damage may also be paid. This will depend on the cause and the management regime followed. In both such cases, you are advised to contact your local Area Office as soon as possible, confirming details **in writing**.

39. Where a crop failure is the result of bad husbandry, then the claim will be reduced without penalty if the Department has been notified, but with penalty if the crop failure is not notified. Bad husbandry is when no real attempt has been made to prepare a suitable seed bed and/or to establish and grow the crop consistent with good agronomic practice and to a locally recognised standard.

40. You are strongly recommended to keep seed invoices, contractor’s bills and any other evidence that you have sown and maintained your crops in accordance with normal agricultural practice.

MINIMUM PLOT AND APPLICATION SIZES

41. The minimum area on which you can apply for AAPS aid is 0.3 hectares.

42. An application may consist of more than one individual plot. The minimum crop plot size is 0.1 hectares – or 0.01 hectares in the case of seed production or research.

PENALTIES

43. If you overstate an area in your claim, claim on areas to which you are not entitled, or do not comply with the EU rules of the scheme, e.g. agricultural production on set-aside land, infringing non-food rules, ineligible silage mixtures, or inadmissible lucrative use of set-aside land, penalties will be applied. These penalties are regulatory requirements and will be set out in full in the 2003 IACS Explanatory Booklet.

44. There are separate penalties for infringing the national management rules for set-aside, e.g. failure to establish a green cover where required, destroying a hedge, or breach of cutting requirements. In such cases, your set-aside payment will be reduced as follows:-

- by £1 for each 0.01 hectare on which rules are infringed, subject to a minimum of £100;
- in the case of linear features, by £1 per metre, subject to a minimum of £100; and
- in the case of environmental features, by £100 for each feature you damage, destroy or remove.

45. Applicants who submit a fraudulent claim or commit fraud or any other criminal offences will be subject to criminal prosecution.

C. SET-ASIDE

YOUR SET-ASIDE REQUIREMENT

46. For main producers, the minimum set-aside rate for the year **2003 is 10%**. This is known as obligatory set-aside. Any set-aside above that 10% is known as voluntary set-aside. There is no obligation on small producers to set aside land but they may do so on a voluntary basis. Set-aside means taking AAPS eligible land out of agricultural production from 15 January in the scheme year concerned until at least 31 August of that year. **However, there are also restrictions on what can be done on set-aside land during the period 1 September to the following 14 January.**

47. Appendix 1 shows you how to calculate your set-aside requirement. If you farm land in more than one yield region, e.g. the Scottish LFA and non-LFA, you must normally meet your set-aside commitment in each region (see Appendix 5).

48. If a claim does not meet the obligatory set-aside requirement, it will be scaled back either to the cropped area supported by the eligible set-aside area in the claim, or to the maximum area that can be claimed by a small producer, whichever is the greater. **Please note that even a small shortfall in your set-aside area may involve a substantial reduction in the cropped area eligible for payment.** It is thus in your best interest to ensure that you have calculated your requirement correctly. Remember to **round up** your set-aside requirement - e.g. if you calculate that you require 4.011 hectares you should set aside at least 4.02 hectares.

49. Where sufficient set-aside has been included in a claim to support the cropped area, but that set-aside is found not to be in accordance with the AAPS rules (other than the management rules), the whole claim will not be eligible for payment.

50. The minimum set-aside claim is 0.3 ha. This can be:

- single blocks not less than 20 metres wide; or
- 10 metre strips next to permanent watercourses (where the minimum plot size is 0.1 ha).

You can set aside land in a single block or in a number of smaller blocks. (Set-aside land can only count as a single block if it is all within one field.) Smaller areas will be acceptable only if they are completely bounded by permanent fixed boundaries such as walls, hedges or watercourses. Provided that they meet these area and width requirements, field margins may be set aside. These requirements also apply to eligible land entered into the former Habitats Scheme and forestry schemes (FWPS/WGS) and claimed as set-aside.

51. Set-aside must be a minimum of 20 metres wide at all points with the exception of whole fields that are completely bounded by permanent, fixed, boundaries and strips alongside permanent watercourses or lochs, which must be at least 10 metres wide at all points.

52. These 10 metre strips can be 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. However, 10 metres wide strips will not be allowed where they are separated from the watercourse. You can make your set-aside plot up to 0.3 ha by joining such strips to other areas of set-aside, e.g. a strip of 20 metres wide in the same field. For the purposes of this paragraph 'permanent watercourses' includes lochs, ponds, rivers, streams, canals, estuaries and field ditches. If the watercourse runs through a culvert, then the culvert should be no more than 6 metres long.

ELIGIBILITY OF LAND FOR SET-ASIDE

53. Any AAPS-eligible land can now be entered into set-aside irrespective of its use in the preceding year. Appendix 6 gives advice on the selection of your set-aside.

TYPES OF SET-ASIDE

Normal Set-aside

- Obligatory/Voluntary Set-aside
- Multi-annual Set-aside
- Additional Voluntary Set-aside
- Guaranteed Set-aside (no longer an option to new entrants)

Non-food Set-aside

- Obligatory/Voluntary Set-aside
- Additional Voluntary Set-aside
- Guaranteed Set-aside (no longer available to new entrants)

Structural Set-aside

- Land in WGS or FWPS
- Land in eligible Habitats option
- Ex-5 year set-aside still in FWS

Land in Structural set-aside does not attract AAPS aid, but will be paid under the relevant structural scheme *at a rate equivalent to the current set-aside rate* if this is lower.

54. All AAPS claimants, including small producers, may set aside AAPS eligible 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 the total cropped area for which you are claiming AAPS aid (i.e. maximum 50% set-aside, 50% crops).

55. 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 multi-annual crops for biomass production, e.g. short rotation coppice;

- ex-Five-Year Set-Aside Scheme land which has been in continuous set-aside under AAPS since leaving that Scheme; or
- AAPS eligible land that has been taken out of arable production under an agri-environmental scheme, and has now left that scheme.

MULTI-ANNUAL SET-ASIDE

56. Multi-annual set-aside is an option similar to the former guaranteed set-aside under which producers undertake to set aside the same plots of land for periods of 3, 4 or 5 years, depending on their status, in return for a guaranteed payment rate. Full details of this option are given at Appendix 8.

ADDITIONAL VOLUNTARY SET-ASIDE

57. Additional Voluntary Set-Aside was land that had been in the 5-Year Set-Aside Scheme and then set aside continuously under AAPS since leaving that Scheme. Such land that has continuously been in set-aside, will be allowed to continue in set-aside even where this exceeds 50% of the claimed area, i.e. up to 100% as indicated at paragraph 55. You cannot combine this set-aside type with any other set-aside type. (You should note that if any additional voluntary set-aside land is cropped it cannot be returned to additional voluntary set-aside).

STRUCTURAL SET-ASIDE

Woodland Schemes

58. You may count land entered into the Woodland Grant Scheme (WGS)/Farm Woodland Premium Scheme (FWPS) towards your set-aside provided that:-

- the land is AAPS-eligible; and
- the WGS/FWPS application was made after 1 July 1995.

This land must, however, meet the normal rules and conditions of both those Schemes.

Any WGS/FWPS land that is counted towards your AAPS set-aside requirement is eligible for:-

- the normal rates of establishment grants under the WGS; and
- an annual FWPS payment not exceeding the relevant set-aside payment for the yield region concerned.

Please note that no AAPS aid is paid on structural set-aside.

59. The main contact point for the WGS/FWPS Scheme literature (including application

forms) is your local Forestry Commission Conservancy Office. However, copies of the FWPS Rules and Procedure booklet are also available from your local SEERAD Area Office.

60. You can set aside land which was originally entered into the former Farm Woodland Scheme (FWS) through the old 5-Year Set-Aside Scheme. The set-aside management conditions will not apply to such land. You will not be able to receive AAPS set-aside payments while the land remains in the FWS. Participants who did not enter the FWS through the 5-Year Set-Aside Scheme cannot claim their FWS land as set-aside under the AAPS.

Habitats Scheme

61. If an application to enter eligible arable land into the Waterside Habitats, Damp Lowland Grassland and Marsh Communities, or Dry Lowland Grassland 20 year options of the former Habitats Scheme was made on or after 1 July 1995, this land can count against your set-aside obligation in 2003. If you are in any doubt about your eligibility to claim AAPS cropping or set-aside aid, please contact your local Area Office.

62. You must have conformed to the rules and conditions of the Habitats Scheme for any land that you wish to count as set-aside, and you will receive the normal annual Habitats Scheme payments. Payment rates for loss of income on land entered into the eligible options of the Habitats Scheme, and claimed as set-aside under AAPS, cannot exceed the AAPS set-aside payment rate in the yield region concerned.

GROWING ORGANIC FODDER LEGUMES ON SET-ASIDE LAND

63. Producers on holdings managed wholly in compliance with the organic Regulations may grow organic fodder crops on their set-aside land. Producers wishing to take advantage of this measure must:-

- (a) be registered as organic producers with an approved organic sector body; and
- (b) farm the entire production of their holding in compliance with the obligations of the Organic Regulation (EU Council Regulation No 2092/91).

64. For the purposes of this measure 'holding' is as defined in the IACS Regulations as all the production units (i.e. all the farms managed by a farmer in a Member State). This means that to be eligible to grow organic fodder legumes on set-aside, **all the farms** comprising the IACS business (i.e. holding) must be wholly managed in compliance with the requirements of the Organic Regulation or be in the process of conversion to organic production.

65. Holdings comprising a mixture of organic and non-organic farms are **not** eligible for this concession.

66. Organic fodder legume crops on set-aside may be grazed by, or fed to, your own or a third person's animals **throughout the Scheme year**. However, if the crop is grazed by, or fed to, a third party's animals, there must be no lucrative return in cash or kind either to you or to a third party.

67. The following organic fodder crops may be grown on set-aside land:

Scientific Name	Common Name
<i>Galega Spp.</i>	Goat's rue
<i>Hedysarum Spp.</i>	Sweet vetches
<i>Lathyrus Spp.</i>	Peas, vetchlings
<i>Lotus Spp.</i>	Trefoils
<i>Lupinus Spp.</i>	Lupins (other than sweet 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

68. Mixtures of these crops with cereals or grasses are also permitted, provided that the fodder legume is the predominant element in the mixture.

SHORT ROTATION COPPICE AND OTHER BIOMASS CROPS ON SET-ASIDE

69. Producers may set aside an area greater than 50% of the total area on which they are claiming aid provided that **all** of their set-aside is used for the production of multi-annual biomass crops, e.g. SRC. The payment will be the same rate as that for obligatory and voluntary set-aside. No other Community-financed aid is payable on non-food crops grown on set-aside land. Grants from the Forestry Commission are available in Scotland to help cover the costs of establishing short rotation coppice on set-aside. For further details of these grants please contact the Forestry Commission.

USE OF SET ASIDE LAND DURING THE SET ASIDE PERIOD

NOTE: Under the EU Regulations, land set aside must so remain for at least the period 15 January to 31 August.

Agricultural Use

70. 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; and
- after 15 July, the preparation for sowing or the sowing of an arable crop for harvest/use after 15 January 2004. This includes ornamental bulbs, field-grown trees and shrubs, cane fruit and strawberries. You must **not** prepare the ground for or sow any agricultural crop which you intend to harvest **or graze** before 15 January 2004, e.g. stubble turnips, kale or any other fodder or vegetable crop.

71. 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.

72. Set-aside land must not be used for any purpose that would bring a return in cash or kind (lucrative use), **to the farmer or to anyone else**, unless that use is compatible with the presence of a standing crop. Thus, if a game cover is sown, it would normally be 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. Please note that the placing of feed hoppers on set-aside land is not permissible during the set-aside period as it constitutes agricultural production (but see paragraph 130 about uses of set-aside after 1 September).

Non-agricultural uses

73. During the set-aside period, the land cannot be put to any non-agricultural use that brings a return in cash or kind, to you or anyone else, with the exception of certain local small-scale charitable fund-raising events. You **must** always seek written permission from your local Area Office **before** allowing anyone to use your set-aside for any charitable event. The only exceptions are those activities which could be carried out equally well if you were growing a standing crop on the land, e.g. occasional game shooting of a strictly non-commercial nature – see paragraph 74.

74. Under the strict EU rules, there is a presumption against the use of set-aside land for any non-agricultural purpose other than for approved non-food uses. These rules prohibit all uses of set-aside which are either commercial or from which any organisation derives any income or other direct benefits. Even if the proposed use is non-commercial and non-lucrative, prior written approval must always be obtained from your local Area Office before any non-agricultural activity is carried out on set-aside land. You **must** apply in writing for such approval, giving full details, **preferably 15 working days in advance** of the proposed activity and in good time to allow changes to arrangements should the planned activity be inadmissible. The only activity for which you do not need prior written approval is grazing your own non-agricultural animal(s), e.g. a pony kept for riding by you or your family, provided that you do not receive any return in cash or kind. Proceeding without written approval will attract penalties.

75. The land must not be used for any activity that is incompatible with the set-aside management rules. In particular, you must not use the land for anything that would damage the green cover. Infringements of the set-aside management rules will also be penalised.

Research

76. Research cannot be carried out on set-aside land unless the research itself is into the management of set-aside. Research into growing non-food crops on set-aside may be possible. However, all the rules concerning non-food crops have to be complied with, including the restrictions on the end use.

MANAGEMENT OF SET-ASIDE LAND

77. The rules in this section apply to all set-aside land (other than land being used for growing non-food crops or land under the structural set-aside option).

78. 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, lochs, lakes and archaeological remains.

79. There are several options to managing your set-aside land:-

- Leave existing cover in place;
- Natural regeneration;
- Sown green cover;
- Sown wild bird cover; and
- Bare fallow (but not for 2 consecutive years).

80. Wherever practicable, you must establish a cover by 15 January, i.e. the start of the set-aside season. This cover is required to minimise nitrate leaching, and may be established through any of the options listed at paragraph 79.

81. If neither undersowing nor natural regeneration is an option, and weather and soil conditions after harvest made it impracticable to establish a sown cover, then you may leave the land alone until the following spring. However, light tillage – no deeper than 7 cms – after harvest would aid the development of cover to avoid nitrate leaching. In the spring, you could sow a green cover. Once you have established a cover, you will need to manage it according to scheme rules.

82. If crops were still in the ground on 1 October 2002, you need not establish a green cover once they are harvested (which must be before 14 January). If you choose not to establish a set-aside cover, you may leave land as bare fallow or allow the natural vegetation to develop to provide cover. You may disc or cultivate lightly to 6-7 cms where necessary to aid germination. You should not disturb the ground further over the winter.

83. Please note, however, that root or vegetable crops still in the ground on 1 October are **not acceptable** for natural regeneration the following year. Such land will require to have an eligible cover sown as soon as is practicable after harvest.

84. **Set-aside can be cut as often as you wish. The only requirement is that you must cut the cover short between 15 July and 15 August** and leave the cuttings on the ground to rot. Alternatively (except in the case of multi-annual set-aside), you must destroy it by 31 August.

85. If you intend to leave the set-aside in place for a further year, you should cut the cover rather than destroy it:

- You must not destroy the cover at all (unless replacing it) on multi-annual set-aside.

- If the cover has been destroyed or has not established, you must establish a new cover before the start of the next set-aside period in accordance with the rules.
- The cover on the land may be replaced if necessary.
- There are other important constraints on managing your set-aside land including restrictions on the application of fertilisers, manure, wastes and lime.
- There are restrictions on the use of the cover after the end of the set-aside period, between 1 September and 14 January.

Existing Cover

86. If an adequate cover already exists on your set-aside land you may leave that in place and manage it according to the scheme rules.

Natural Regeneration

87. Natural regeneration may be used to establish a cover after a combinable crop including herbage seed. If you use natural regeneration after herbage seed, 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.

88. After harvest, you must leave land to develop a cover from the seed bank and volunteers. Using a straw chopper when combining can encourage the establishment of cover. After harvest, you must not plough, deep cultivate 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 cms to encourage germination. Any such discing/cultivation should be done early before any significant growth of vegetation has taken place.

Sown Green Cover

89. A sown green cover can be established either by under-sowing the previous crop or by sowing a low-density sward as soon as possible after harvest of the previous crop. You may also establish a sown green cover in the spring.

90. Seed mixtures may include broad-leafed plants and wild flowers (including legumes).

91. To ensure that the cover is not subsequently used for herbage seed, grass covers must be sown with home-saved or certified seed. You must not sow breeders' pre-basic or basic seed.

Wild Bird Cover

92. Wild bird cover can provide valuable feeding grounds for both seed-eating and insect-eating birds. Where the land remains set aside for more than one year, this cover must be replaced during the second calendar year after it was sown.

93. For example, if the cover was sown in the spring of 2001, it must be replaced by the set-aside year commencing on 15 January 2003. It must be replaced if one crop group comes to dominate so that the cover is no longer a mixture where the components could not be harvested separately. It may be destroyed after one year only if you need to do so, e.g. because you wish to rotate your set-aside.

Type of Wild Bird Cover to Sow

94. Wild bird cover must be a mixture of at least two crop types which would not normally be grown as a mixture for agricultural production **and** it is not practicable to harvest the components separately. Whether or not you **intend** to harvest or graze it is irrelevant. What matters is whether the mixture is **capable** of being harvested or grazed. The mixture must be sown on the same land; you cannot sow alternate rows, or blocks, of each seed.

95. You must ensure that the mixture remains an unharvestable mix. This is particularly important if the land is to remain in set-aside. If one component of the mix deteriorates, you must write to your local Area Office immediately and reinstate the mixture by replacing either the lost components or the whole mixture as soon as possible. It will sometimes be noticed too late to take corrective action immediately, in which case it is acceptable to retain the existing cover, but you must destroy it before the plant cover becomes harvestable (normally mid to late July). Again, you must inform your local Area Office **in writing** if you intend to do this.

Examples of Acceptable Wild Bird Cover

- A mixture of cereals and brassicas
- Other acceptable covers, e.g. mustard and phacelia.

In other cases contact your local Area Office.

Examples of Unacceptable Wild Bird Cover

- A mixture of cereals and grass
- A mixture of rape, kale and turnips.

Management of Wild Bird Cover

96. Wild bird cover is generally best established in the spring following natural regeneration over winter, although you may also sow a cover in the autumn. Up to 30 kg of nitrogen per hectare may be applied to help establishment. You are not required to cut the cover, **provided** that you follow in full all the rules in paragraph 102, but if you do take advantage of this derogation, you must **not** graze, or allow the cover to be grazed, or use it for any agricultural purpose, until after 15 January 2004.

Bare Fallow

97. If you choose not to establish a sown green cover you may leave your land as bare fallow.

Compulsory Cut or Destruction

98. The EU rules require that the growth from the green cover is not put to any commercial use. The green cover should be cut short or destroyed at the end of the set-aside period unless covered by the exemptions below. You **must** either:

- cut the green cover short (to approximately 10 cms or less) between 15 July and 15 August. The cuttings must not be removed or used but must be left on the ground to rot; or
- destroy the green cover by 31 August (this option does not apply to multi-annual set-aside).

99. The cuttings will cause fewer problems to the sward if chopped and scattered. If leaving the cuttings on the ground would cause environmental problems, you **must** ask your local Area Office 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. **The cuttings may not be used for any agricultural purpose.**

100. **You should try to avoid cutting your set-aside land between 1 April and 14 July as this may disturb or destroy nesting birds and prevent flowers from seeding.** At other times you should take measures to minimise the damage to wildlife, by commencing regular mowing early in the year; 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.

101. Avoid cutting on or near visible archaeological features. Where cutting is unavoidable, take extra care to avoid damage to such features.

Exemptions from the Compulsory Cutting Requirement

102. Exemptions are as follows:

- You are setting aside field margins or headlands and do not graze the land or take 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, but the cut may take place at any time of the year.
- Up to 25% of each set-aside field/parcel may be left uncut for up to 3 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 cut the area more frequently than every 3 years.
- You may leave up to 2 metres adjacent to a hedge or wood permanently uncut to encourage broadening of the hedge or natural regeneration of the woodland. No specific exemption is required.

- You have sown a wild bird cover and there is no requirement for any cut. If, however, you wish to graze the cover after the end of the set-aside period, then you are **not** exempted from the cutting requirements.
- You may, however, apply to your local Area Office, (in writing, preferably at least 15 working days in advance) for an exemption to cut at a different time, to leave the grass longer or to allow regeneration, provided that you do not intend to use the cover, e.g. for hay, silage or grazing, at the end of the set-aside period; or
- 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.

Other Exemptions

103. You may apply for exemptions from any of these rules, or to follow your own management plan, on one or more of the following grounds:

- **environmental** or **archaeological** reasons, e.g. to benefit or avoid damaging wildlife, to manage the land to encourage ground nesting birds or to conduct an archaeological excavation. Applications for exemption on **archaeological** grounds must be supported by Historic Scotland or by the appropriate Local Authority Archaeologist (LAA). Farmers should approach their LAA in the first instance **unless** the set-aside area in question is known to be a “Scheduled Ancient Monument (SAM)”. In such cases the first contact should be Historic Scotland. If, after initial contact, the LAA finds that the site is a SAM then he would be expected to refer the applicant to Historic Scotland. However, if there is no LAA, or in the case of other difficulties, farmers should seek advice from Historic Scotland;
- for **research** into different ways of managing set-aside and/or the effects of set-aside. Such exemptions will normally only be given to recognised research organisations or on land being managed as part of an experiment by such an organisation;
- as an **educational institution** wishing to train students in agricultural techniques, e.g. ploughing, provided that such training does not include the sowing or growth of any agricultural crop;
- if a public utility or other body with compulsory purchase powers is installing a **pipeline** or **cable** on your land you may apply to be exempted from the green cover requirements; and
- for reasons of **human or animal health or safety or of plant health.**

How to Apply for an Exemption

104. If you wish to apply for an exemption on one of these grounds, you must **write** to your

local Area Office setting out why you need an exemption. Please attach any **supporting documentation**, e.g. copies of letters from public utilities, to your letter. **You must receive written agreement** from your local Area Office **before** you depart from any of the standard management rules for set-aside.

Tenants

105. Tenants are strongly advised to consult their landlords before seeking an exemption for any management practice which might affect the nature or value of their land, e.g. to allow regeneration, to ensure that they would not be in breach of an actual or implied term in their tenancy agreement.

Weed and Volunteer Control

106. You may need to take action to control aggressive weeds, crop volunteers or vigorous growth. This may be done using herbicides, cutting or cultivation. You are reminded that cultivation before mid to late-July is still potentially one of the **most damaging** agricultural operations for wildlife and could destroy a wide range of species. You are thus strongly advised to consider alternatives such as the timeous use of herbicides to control weeds and to always take the precautions set out in paragraph 108.

107. You should pay particular attention to controlling those weeds specified in the Weeds Act 1959: common ragwort, broad-leafed dock, curled dock, spear thistle and creeping or field thistle. The Act empowers Agriculture Ministers to take action against anyone who occupies and manages land from which these weeds are spreading.

108. 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 which have not yet set seed. You must:

- avoid operations such as non-selective herbicide treatment, cultivation or cutting unless strictly necessary; the use of appropriate selective herbicides can be beneficial;
- where feasible, delay these operations until as late as possible (certainly 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 or cultivation;
- 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 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.

Herbicides

109. In most situations, specific permission is not required **provided** the herbicide is used in accordance with its specific label or off label approval. Current statutory conditions as detailed in paragraph 115 must be followed.

110. Written permission must be sought from your local Area Office prior to spraying a herbicide **before 15 April** which will result in the destruction of the green cover **and** that cover is not being replaced immediately.

111. 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. However, if you are growing a non-food crop on the land, only products with a specific label or off-label approval for the crop in question may be used.

112. 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 which would be likely to destroy the green cover (except if replacing the cover or creating/maintaining a bare strip next to the crop). **Thus, broad spectrum, non-selective herbicides should not generally be sprayed on the land before 15 April**, but spot applications, the use of wick applicators or the use of selective herbicides which leave the bulk of the green cover intact are permissible before that date. 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. If you are in multi-annual set-aside, you must not take any action that would destroy the green cover, unless you are doing so in order to replace it.

113. For non-residual products:

- 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 that 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.)
- Off-label arrangements allow certain other herbicides to be used on certain set-aside areas. If in doubt, please contact your local Area Office.

Use of Pesticides (other than Herbicides)

114. **You must not apply any other pesticides, e.g. fungicides or insecticides, to set-aside land.** You can, however, apply to your local Area Office, **in writing, preferably 15 working days in advance**, for a specific exemption to apply pesticides where you can demonstrate that this is necessary to control plant health problems that cannot be remedied by other means. You must not apply such pesticides until you have **received written authorisation**; nor should you use pesticides near sensitive areas such as watercourses and hedges.

Legislation

115. A herbicide with approval for the appropriate crop or situation must be used. In all cases you must make sure that you follow the statutory conditions set out on the herbicide label. It is your responsibility to make sure that your use of herbicides complies with the Food and Environment Protection Act 1985, the Control of Pesticides Regulations 1986, as amended, and the Plant Protection Products Regulations 1995, as amended, which implement the provisions of EC Directive 91/414 concerning the placing of plant protection products on the market.

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

Cultivation

117. In order not to disturb the green cover, there is general prohibition on:

- Before 1 May - cultivation and ploughing (for registered organic farmers or holdings in organic conversion);
- Before 1 July - cultivation and ploughing (for all other farmers); and
- Before 15 July - carrying out any preparation for sowing a crop.

118. If you disturb any **right of way** through cultivation you must restore the path in accordance with Section 43 of the Countryside (Scotland) Act 1967.

Replacing A Green Cover

119. If you wish to **replace** an existing cover, you may do so at any time provided that the following conditions are met:-

- soil conditions are suitable for sowing the new cover; **and**
- 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.

If you wish to keep the land in set-aside for a further year, you must establish a replacement cover so that an adequate cover is in place by 15 January 2004. It is recommended that you avoid replacing the cover between April and July as this can harm wildlife.

MISCELLANEOUS RULES FOR SET-ASIDE LAND

Manure and Wastes

120. You can only apply slurry, manure or organic waste to set-aside land **if it is from your own holding**. Such waste may only be applied where there is an existing green cover on the land and must not be applied at levels which would destroy the green cover or which could cause pollution of watercourses.

121. If you are applying animal manure or slurry remember:

- applications of organic manure should be moderate and in no circumstances should they exceed 250 kg/ha/year total nitrogen;
- levels of application of manure to set-aside land must in no circumstances exceed the application rates set out in the Code of Good Practice - Prevention of Environmental Pollution from Agricultural Activity (the PEPFAA Code);
- 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 manure;
- the application of slurry and manure can disturb wildlife. Avoid applications when there are likely to be nesting birds (during the period early-April to mid-July); and
- keep manure away from field margins and hedges.

122. Manure or 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 manure or waste than are to be applied to the field on which they are being stored.

123. You cannot use set-aside land as a storage, disposal or dumping ground for any form of waste, **including sewage sludge**.

Fertilisers

124. Farmers may not apply fertilisers to set-aside land due to remain in set-aside the following year, or to multi-annual set-aside.

Liming

125. You may apply lime and gypsum to set-aside land in its last year in set-aside provided that you do not disturb the green cover before 15 July. Paper crumble may also be applied as

a liming agent to set-aside land, again only in its last year in set-aside. Further details of the conditions that must be met are available from your local Area Office.

Drainage

126. Sub-soiling, piped field drainage and mole drainage may not be carried out **before** 1 July unless it is essential to prevent flooding. In that case the green cover must be reinstated **as soon as possible** after the work is complete. Drainage work can be damaging to sensitive deposits on or near archaeological sites. Where a monument is scheduled, drainage operations require formal prior consent from the Scottish Ministers through Historic Scotland. For further information refer to the leaflet “Archaeological Information and Advice in Scotland” available from Historic Scotland or from your local Area Office.

Prevention of Illegal Access

127. In set-aside fields that are vulnerable to illegal vehicular access, i.e. adjacent to a road or a track, you may create a bare ploughed strip of up to 5 metres wide adjacent to likely points of access.

Burning

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

Storage of Produce from the Previous Harvest

129. You may use your set-aside land for the **temporary** storage of produce from your holding, e.g. bales of straw, **provided** that there is no risk of damage to the green cover.

USE OF THE LAND AT THE END OF THE SET-ASIDE PERIOD

If You Wish to Leave the Land in Set-Aside

130. The end of the set-aside period is 31 August. There are restrictions on what you can do with any cover on the land at the end of the set-aside period between 1 September and the following 14 January. No cover established during the set-aside period may be put to any commercial use.

You may :

- harvest hay or silage for your own use, provided that you have cut the cover between 15 July and 15 August;
- keep your own animals (including pigs), or other people’s, on the land, provided that you do not receive any return in cash or kind. (In the case of pigs, where agreements to keep pigs on land usually cover a longer period, farmers wishing to allow pigs onto land leaving set-aside must submit a copy of their Tenancy Agreement to their local Area Office.) However, they must not under any circumstances be kept in such numbers as to damage or destroy the green cover;
or

- site game bird release pens and/or feeding hoppers on the set-aside area, provided that these are used solely in connection with a totally non-commercial shoot from which neither the farmer nor any third party derives any return in cash or kind.

You may **not**:

- keep other people's animals on the cover for a return in cash or kind, or lease the land for such purposes; or
- sell, barter or exchange any hay or silage harvested during this period; or
- use the set-aside cover for any other commercial purpose.

131. If the cover has been destroyed or has not established, you must establish a new cover before the start of the next set-aside period in accordance with the rules.

If You Wish To Sow A Crop On The Land For Harvest The Following Year

132. From 15 July 2003 you may prepare the land for, and sow, cereals, linseed, oilseeds, protein crops, flax, hemp, ornamental bulbs (excluding onions or garlic), field grown trees or shrubs, cane fruits and strawberries (but **not** any other horticultural crops) intended for harvest after 15 January 2004. You can leave multi-annual set-aside, without penalty, after 31 August in the final year of the agreement and may sow crops on the land from 15 July in that final year for harvest from 15 January the following year. You may also sow a temporary grass ley under this provision. However, you cannot graze grass leys, or other traditional forage crops, e.g. stubble turnips, kale or any other fodder or vegetable crop established after 15 July 2003, until **after** 15 January 2004. No exemptions can be granted in respect of this EU rule.

133. There are financial penalties for infringement of the set-aside management rules, e.g. failure to comply with the rules prohibiting agricultural use and restricting non-agricultural use. You are thus strongly advised to ensure that all the management rules are observed.

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

134. You may grow certain crops under contract for non-food use on set-aside land. However, the EU rules are very strict. If you do not comply with them, you will lose your set-aside payment and your associated crop payments. General and management rules are described below. The list of eligible crops are given in Appendix 7.

GENERAL RULES

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

- your main farm code number, i.e. the farm code under which you will be submitting your 2003 AAA;
- 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 total forecast quantity to be harvested (in tonnes). The forecast yield must fall within a yield range made available by the RPA 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 EU Commission Regulation (EC) 2461/99 as outlined in paragraph 140;
- 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 EU to make one or more of the end products listed in Table 3; and
- the forecast quantity of by-products to be produced which are 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 90 or 1201 00 90.

136. You **must** ensure that the valid, signed (by both parties) contract is concluded in time for it to be lodged by the collector or first processor with the RPA by the following dates:

- (a) **for crops sown between 1 July and 31 December 2002 inclusive (winter sown crops) by 31 January 2003; or**
- (b) **for crops sown/to be sown between 1 January and 30 June 2003 inclusive (spring sown crops) by 15 May 2003.**

The collector or first processor must deposit with the RPA a security equal to 250 euros per hectare for the area covered by the contract by the final date for the lodgement of the AAA in the year of harvest. If the land under contract is transferred to another IACS applicant you must contact the RPA, as such changes will affect your non-food contract.

MANAGEMENT RULES FOR NON-FOOD SET-ASIDE

137. The normal **management rules** do not apply to land growing non-food crops.

However, you must:

- observe the other EU rules on set-aside, including those on non-agricultural use of the land (paragraphs 70-76);
- **not** damage, destroy or remove any relevant features on the land;
- observe the Code of Good Practice “Prevention of Environmental Pollution from Agricultural Activity” (PEPFAA Code) particularly on burning crop residues;
- **not** apply organic wastes and fertilisers in quantities in excess of those accepted as being in accordance with normal agricultural practice and recommended in the PEPFAA code; and
- observe the minimum separation distance rules for neighbouring high and low erucic acid rapeseed crops (these are set out in full in Appendix 4).

If you destroy the crop prior to harvest you must establish a green cover and follow the other set-aside management rules unless you have a specific written exemption from your local Area Office.

138. A range of crops for non-food uses, including oilseeds, cereals and linseed, can be grown on set-aside land. The key points to note are that:

- the crops grown and their intended end-use are restricted to certain crops/end-uses listed in Table 3, Appendix 7;
- the value of the non-food end products **must** be greater than the value of all food (including animal feed) by-products;
- you must have **signed and dated a contract** with a collector or first processor;
- this contract must conform with the requirements set out in paragraphs 142-149;
- the collector or first processor must lodge the contract with the RPA by 31 January for winter sown crops, and by 15 May for spring sown crops. **If he fails to do so, your payments will be at risk;**
- **you must deliver all the crop** harvested from your set-aside land to the collector/first processor for non-food use, **even if the quantity harvested exceeds the quantity predicted in the contract;**
- in the case of crops eligible for intervention, i.e. barley, rye and varieties of wheat which may achieve common wheat standard, the quantity delivered must not normally be less than the quantity forecast in the contract, **even if you have to make up any shortfall from other sources;**

- you cannot receive your set-aside payments until you have delivered your crop to the first processor or collector and sent your local Area Office a form (IACS 9) declaring the details (including weight) of the delivery.

139. **Oilseeds grown on set-aside are subject to special restrictions** as a result of the agreement between the EU and the United States which requires the EU to take “appropriate corrective action” if the by-products of these oilseeds exceed the equivalent of one million tonnes of soya bean meal. The Commission is monitoring such production and we will advise you in due course if any penalty is to be applied.

Permitted End-Uses

140. The crop grown must be processed within the EU into a non-food product listed in Table 3 (Appendix 7). 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. The RPA is responsible for assessing the relative values and you should contact them if you have any doubt about the relative value of your crop.

Perennial/Biennial Crops

141. You may grow perennial or biennial crops as a non-food set-aside crop provided they are listed in Table 1 for an end use in Table 3. You **must** leave the crop in the ground and claim it as a non-food set-aside crop each year for the duration of the contract. If this continuity is broken, e.g. if you lift the crop from the ground or 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 147 re-apply. In other words, you would have to re-sow the non-food crop and take out a new contract that must be concluded and lodged by the dates due for the year the crop is sown. For example, if you sow your crop in April 2003, e.g. Roman camomile, you must conclude and lodge your contract by 15 May 2003. 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 set-aside crop. Contracts for multi-annual harvesting can be activated each year provided, on lodgement, that the contract specified that this would be the case. For further information contact the RPA.

The Contract

142. 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.

NB. You should ensure that you retain a copy of the contract for submission to your local Area Office with your AAA. 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, and you may lose both your set-aside payment and related crop payments, and additional IACS penalties may have to be applied.

Amendment of the Contract

143. The contract (for winter and spring sown crops) may be amended or rescinded (with the agreement of the contracting parties) at any time **up to and including the final date for amending the AAA, i.e. 15 May**. Collectors and first processors must deposit a copy of the amended/rescinded contract with the RPA by 15 May. The security lodged with the RPA shall be adjusted in line with any amendment.

144. However, if the contract is to be amended or rescinded **after you have submitted your AAA but by 15 May**, you must inform your local Area Office and the collector/first processor must inform the RPA to enable all necessary checks to be carried out. As far as possible, notification should be made at least 10 days before the amendment or rescission. Clearly this will not always be possible if amendments are made close to the 15 May deadline. As much notice as practicable, therefore, should be given to your local Area Office and the RPA.

145. **After 15 May**, amendment or rescission of the contract may only be possible if you are unable to provide all or part of the crop covered in the contract. In such cases, you must observe the requirements outlined in paragraphs 147-149.

Reductions of Area Under Contract

146. If you amend your contract, you should follow the appropriate course of action from the following:

- if you amend your contract before 15 January 2003 and the contract has been lodged, SEERAD do not need to know but you should tell the RPA;
- if you amend your contract on or after 15 January 2003 and the land is going to remain set aside, you **must** inform both your local Area Office and the RPA; or
- if you amend your contract on or after 15 January 2003 but before you have lodged your IACS application, and if the land is not to remain in set-aside, SEERAD do not need to know but you **must** inform the RPA; or
- if you amend your contract on or after 15 January 2003 but after you have lodged your IACS application, and if the land is not to remain in set-aside, you **must** inform both your local Area Office and the RPA.

Inability to Provide Contract Quantity/Reduction of Area under Contract

147. If, for any reason, it becomes clear before harvest that you are unable to provide all of the crop specified in the contract (even if 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. Thereafter, you must inform your local Area Office and the RPA. When your local Area Office agrees to a reduction of 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.

148. If your crop is subject to a representative yield and you fail to deliver at least that yield, then you must contact your local Area Office. In exceptional circumstances, a shortfall of up to 10% may be permitted. A further shortfall can be considered by your local Area Office where there is a valid reason, but **only** where your contract has been amended to allow a lesser amount than that specified in the original contract (see paragraph 147). 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.

149. If you fail to deliver the amount of raw material for the crops listed in Table 1, then your set-aside will be reduced by an amount equivalent to the percentage shortfall of the crop and IACS penalties will be applied. You can avoid penalties if you make up the shortfall from raw material obtained from elsewhere. If you choose this option you must inform your collector/first processor immediately and they must inform the RPA that the contract is not yet complete.

Harvest

150. **After harvest you must** deliver the **entire** 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, but the crop must be kept separate from any other harvested material at all times. The Department will require an accurate assessment of the weight delivered. This may be done by volumetric assessment initially although **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.

Representative Yield

151. The EU rules require the UK to set up representative yields for oilseeds other than HEAR varieties. In addition to delivering the **entire** crop harvested to their collectors/first processors, growers of oilseeds other than HEAR must ensure that this delivery equates to at least the representative yield appropriate to the crop. All non-food set-aside growers will be sent notification of these yields with their IACS 9 form. The representative yields will be set by SEERAD by 31 July of the year of harvest, and will be based on a **standard** quality, i.e. adjusted to take account of moisture and admixture content.

152. If the representative yield appropriate to your crop is set at a higher level than the yield in your contract you **must still deliver at least the representative yield**.

After Delivery

153. **After delivery** you must send a delivery declaration (IACS 9) form to the local Area Office 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. Local Area Offices will send IACS 9s to all applicants with non-food set-aside crops. **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 local Area Office. **Late submission of your IACS 9 may result in a penalty being applied.**

Payment

154. AAPS aid will be paid on non-food set-aside land at the normal set-aside rate. However, the payments cannot be made until the local Area Office has received the delivery declaration form (IACS 9) **and** the collector/first processor has fulfilled various commitments including confirming to the RPA 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 farmers send in their delivery declaration form(s) as soon as possible and at the **latest by 9 February 2004**. 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.

CROPS WITH NO FOOD OR ANIMAL FEED USE LISTED IN TABLE 2

Eligible Crops

155. A limited range of crops that have no food or animal feed use can be grown on set-aside land under less onerous controls than those listed in Table 1. They include short rotation coppice (SRC) and miscanthus and are listed in Table 2. If you intend to grow SRC on your set-aside land, you should pay particular attention to siting your set-aside land so as to fit the coppice into the landscape (see Appendix 7).

156. You cannot receive any other EU financed aid on non-food set-aside crops. Under Agenda 2000, provision was made for the payment of grants for energy crops (miscanthus and SRC). However, this was dependent on energy crops being included in the Rural Development Plan and, as the payment of any grants will be on a shared basis with the EU, the availability of national funds. These payments will not affect the eligibility for the set-aside payment.

Permitted End-Uses

157. The permitted end-uses are set out in Table 3, Appendix 7.

Obligations on the Farmer

158. **There is no need to have a contract before planting an eligible crop listed in Table 2.** No delivery notification on form IACS 9 is required. However, when you submit your AAA, you will have to give a written undertaking that the crop is intended for an appropriate non-food use and that you understand that any breach of this undertaking will result in penalties. (There will, however, be no penalties if you cannot find a market for the crop, **provided that you do not use it for food or feed.**)

D. RELATIONSHIP WITH OTHER SCHEMES

159. AAPS may have a relationship with the following schemes:

- Suckler Cow Premium Scheme
- Beef Special Premium Scheme
- Extensification Premium Scheme
- Less-Favoured Area Support Scheme
- Rural Stewardship Scheme
- Countryside Premium Scheme
- Organic Aid Scheme
- Environmentally Sensitive Areas

To determine how your participation in AAPS might impact on any of the above, you are advised to consult the relevant scheme literature.

SEED CERTIFICATION

160. A separate leaflet on seed certification and set-aside is available from your local Area Office. This explains the implications of set-aside for seed growers and, in particular, the correct intervals for seed crops.

SEED PRODUCTION AID

161. Seed production and AAPS aid can continue to be claimed for the same crop of linseed or of spelt wheat. However, growers intending to claim seed production aid are advised to contact the RPA before entering into any contracts.

E. RECORDS

162. You must keep for 4 years all invoices, seed labels, sales and delivery notes relating to seed sown; delivery notes relating to non-food crops grown on set-aside land; and documentation needed to prove that any oilseed rape sown conforms to the requirements set out in Appendix 4. The 4 year period is counted from the end of the calendar year in which the crop was harvested.

163. You are also strongly advised to **keep** any other appropriate **cropping and set-aside records** and any evidence, e.g. sales notes or contractor's invoices that you have sown and maintained any crops on which you are claiming area payments in accordance with local standards and by the required sowing dates. **You are also strongly advised to keep copies of your AAAs, maps and all supporting documentation.**

164. The Joint DEFRA/HSE Code of Practice ('The Green Code') for the safe use of **pesticides** recommends that records of all operations requiring the storage, application and disposal of pesticides should be kept for at least 3 years. Full details of record retention periods are in the Code. (Copies of The Green Code are available free of charge from DEFRA Publications, ADMAIL 6000, London SW1A 2XX, Tel: 08459 556000.)

165. If you have not already done so, you should draw up a detailed record of your field use at the end of 1991 to establish which fields are AAPS eligible. Your records should be supported where possible by appropriate documents. If you claim on ineligible fields you will be subject to penalties and will lose some or all of your AAPS aid.

166. If you have **switched ineligible for eligible land** you must retain all documents related to the application, including, if you are a tenant, a copy of your landlord's written permission to switch, for 4 years from the end of the calendar year in which the switch was made.

F. APPEALS AND COMPLAINTS

167. If you are not sure why you have been penalised, or do not fully understand a decision made by this Department in connection with your claim, you should first contact your local Area Office for a fuller explanation.

168. If you are not satisfied with this explanation and wish the decision to be reviewed, you can do so under the EU Agricultural Subsidy Schemes Appeals procedure. You have 60 calendar days from the date of our decision letter in which to submit your appeal. The Appeals procedure consists of three stages: an in-house review, an external panel review and an appeal to the Scottish Land Court.

169. Full information on the appeals system procedures, including the timescale allowed for making an appeal, is given in the Department's information leaflet AP (EL) June 2001 which was issued to all farmers. Further copies are available from Area Offices and from the Appeals Secretariat and on the Department's website. Any questions should be addressed to the Appeals Secretariat, SEERAD, 47 Robb's Loan, Edinburgh, EH14 1TY. Please note that the appeals procedure does **not** handle complaints about standard of service.

170. If you have a complaint about the **standard of service** which the Department provides, you should proceed as follows:-

- Contact the person in the local Area Office who is dealing with your case. You can register a complaint by letter, by telephone or in person. If you want to have your complaint considered by a more senior officer, please write to the Principal Agricultural Officer at your local Area Office. He will deal with the complaint if one of his staff is involved or forward it to the appropriate person. It will help us to investigate your complaint if you set out the facts as fully as possible, quoting your main farm code number. We will acknowledge your complaint by return, investigate it properly, and aim to reply within two weeks.
- If you are dissatisfied with the response, you may write to the Chief Agricultural Officer, The Scottish Executive Environment and Rural Affairs Department, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY, and ask him to investigate the matter further.
- You may ask your Member of the Scottish Parliament (or alternatively your Member of the UK Parliament) to take up your complaint with the Minister for Environment and Rural Development at The Scottish Executive, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY.
- You, or a representative authorised by you to complain on your behalf, may also ask the Scottish Public Services Ombudsman for your complaint to be investigated. Your representative may be an MSP, local councillor or any person you consider suitable to represent your interests. Your complaint must be submitted to the Scottish Public Services Ombudsman, 23 Walker Street, Edinburgh, EH3 7HX within 12 months after the day on which you first had notice of the matter complained of. Further information regarding the Scottish Public Services Ombudsman is available at www.scottishombudsman.org.uk

HOW TO CALCULATE YOUR SET-ASIDE REQUIREMENT FOR 2003

NOTE: For 2003, the minimum set-aside requirement is 10% in both the Scottish LFA and non-LFA. **However, if you are offsetting set-aside, i.e. you are claiming arable crops in one yield region against set-aside in another, please refer to Appendix 5.**

(1) If you know the TOTAL area of land you want to claim area and set-aside payments on:

$$\text{Total area} \times \frac{10}{100} = \text{set-aside area}$$

For example, you want to enter 200 ha of arable cropping and set-aside into the main scheme. The sum is:

$$200 \times 10 \div 100 = 20.00$$

To be eligible to receive AAPS aid on the cropping element of this claim, you must set aside a minimum of 20.00 ha and crop the remainder of the 180 ha.

NOTE: If, when calculating your total set-aside requirement, you round **down** to the nearest second decimal place, you will automatically as a result have **insufficient set-aside** to qualify the whole of your arable cropping claim for payment.

When calculating your set-aside requirement, you are therefore strongly advised to calculate to three decimal places and to round **up** to the nearest second decimal place in order to qualify the whole of your arable cropping claim for payment.

For example, you want to enter 162.04 ha of arable cropping and set-aside into the scheme. The sum is:

$$162.04 \times 10 \div 100 = 16.204 = 16.20 \text{ (rounded to the nearest second decimal place).}$$

You thus enter 145.84 ha of arable cropping and 16.20 ha of set-aside. However, a set-aside area of 16.20 ha is insufficient to cover the whole of the 145.84 ha of cropping claimed. The sum for the maximum area of arable cropping on which aid can be paid is:

$$16.20 \times 90 \div 10 = 145.80 \text{ ha}$$

In this example, payment on the arable cropping claim would be **restricted** to 145.80 ha.

To confirm the maximum area of cropping on which you will be paid AAPS aid, you are thus strongly advised to carry out the calculation as at (3) below.

(2) If you know the area of cropped land you want to claim cereals, linseed, oilseeds, proteins, flax and hemp payments on:

$$\frac{\text{cropped area}}{\text{area}} \times \frac{10}{90} = \text{set-aside area}$$

For example, if you want to crop 140 ha the set-aside requirement is:

$$140 \times 10 \div 90 = 15.556 = 15.56 \text{ (rounded up to the nearest second decimal place)}$$

You must thus set aside a minimum of 15.56 ha for the whole of your 140 ha of cropping to receive AAPS aid.

NOTE: If, when calculating your set-aside requirement, you round **down** to the nearest second decimal place, you will automatically as a result have **insufficient** set-aside to qualify the whole of your arable cropping claim for payment.

When calculating your set-aside requirement, you are therefore strongly advised to calculate your total set-aside requirement to three decimal places and to round **up** to the nearest second decimal place in order to qualify the whole of your arable cropping claim for payment.

For example, you want to crop 84.00 ha. The sum is:

$$84.00 \times 10 \div 90 = 9.333 = 9.33 \text{ (rounded down to the nearest second decimal place)}$$

You thus set aside 9.33 ha of land. However, a set-aside area of 9.33 ha is insufficient to cover the whole of the 84.00 ha of arable cropping claimed. The sum for the maximum area of arable cropping on which AAPS aid can be paid is:

$$9.33 \times 90 \div 10 = 83.97 \text{ ha}$$

In this example, payment on the arable cropping claim would be **restricted** to 83.97 ha.

To confirm the maximum cropping area on which you will be paid AAPS aid, you are thus strongly advised to carry out the calculation as at (3) below.

(3) If you know the total area of land you want to enter into SET-ASIDE:

$$\frac{\text{set-aside area}}{\text{area}} \times \frac{90}{10} = \text{maximum cropping area on which you can be paid AAPS aid}$$

For example, if you want to set aside 7.43 ha the sum is:

$$7.43 \times 90 \div 10 = 66.87$$

You can therefore claim AAPS aid up to a maximum cropping area of 66.87 ha.

SMALL PRODUCERS

1. Small producers are those who claim on an area no greater than that required to produce 92 tonnes of crops at the historic reference yields used for making AAPS payments. They receive the same rates of payment as other claimants but are not **required** to set aside any land.
2. The maximum area that can be claimed by **small producers** is 17.66 hectares in the Scottish LFA and 16.23 hectares in the Scottish non-LFA .
3. If you wish to calculate whether the area on which you intend to claim is subject to obligatory set-aside, you should:
 - (i) multiply the area claimed (in hectares) by
 - 5.67 (non-LFA)
 - 5.21 (LFA)
 - (ii) add together the resulting figures for all areas claimed.

If the total figure that results is less than or equal to 92, there is no obligation to set aside any land. If the figure is greater than 92, then at least the obligatory percentage of land must be set aside to ensure full payment of the claimed cropping area.

N.B. The historical reference yields used above are for Scotland. Small producers claiming on land in more than one yield region should refer to Appendix 5.

4. You may submit a claim with too much land to qualify as a small producer, but with no set-aside land or insufficient set-aside land to meet the obligatory requirement. In such cases, the local Area Office will scale back your claim. There is no penalty where claims are scaled back in this way. The claim will be scaled back **either** by the reduction of the cropped area claimed to that supported by the area of eligible set-aside in the claim, **or** to the equivalent to the 92 tonnes limit, whichever is the greater. In scaling back claims, the area of each crop claimed will be reduced in proportion to the areas originally claimed.
5. Small producers can set aside land on a voluntary basis. The area of any such set-aside should be treated as an area of crops for the purpose of calculating the area that can be claimed without obligatory set-aside. Voluntary set-aside can also be scaled back where necessary, and must comply with the normal set-aside rules.

BASE AREA (PRODUCTION CEILING) AND PAYMENT RATES

1. There is a limit on the total area which can be claimed for AAPS aid. However there is no limit on the area of land on which **individual** farmers can claim AAPS aid, provided that the land is eligible, is growing eligible crops and meets the other Scheme rules.

Regional Base Area

2. For Scotland, there is a single base area comprising LFA and non-LFA land.
3. The base area is the average number of hectares used to grow cereals, oilseed rape and protein crops, as submitted by farmers in their Census returns, and that land entered into the 5-Year Set-Aside Scheme in 1989, 1990 and 1991 and the One-Year Set-Aside Scheme in 1991. The base area was amended in 1994 to allow for the inclusion of linseed in the AAPS.
4. The total area on which claims are paid in a base area cannot exceed the average area sown to eligible crops, and in set-aside, in 1989-91. If in any year, total AAPS claims and all land in eligible arable crops declared as forage in the AAA, exceed the base area, then the AAPS payment rates will be reduced proportionately.

Announcement of Penalties

5. By early November 2003, the Department will announce the financial penalty resulting from any Scottish base area overshoot in 2003. Please look for details in the farming press or check the position with your local Area Office.

PAYMENT RATES

6. The payment rates are based on the standard EU currency (euro) rates per tonne, which are then converted to rates per hectare using historic average cereal yields in each region. The euro rates will be converted into Sterling at the average exchange rate applying in June 2003. **The rates quoted here, for illustrative purposes only, are those rates currently in force. The Council of Agriculture Ministers could decide to modify the payment rates in the future.** The full payment rates for Scotland, excluding modulation, at the 1 July 2002 rate of exchange 1 euro = £0.643937 are set out below.

Crop	Euros/ Hectare	Scottish LFA Region	Euros/ Hectare	Scottish non- LFA Region
		£/hectare		£/hectare
Cereals, linseed, oilseeds, flax, hemp and set-aside	328.23	211.36	357.21	230.02
Protein crops	377.73	243.23	411.08	264.71
Guaranteed set-aside (entered into in 1999)	358.60	230.92	390.27	251.31

MODULATION

7. The UK has now implemented a Rural Development Programme (RDP) which will benefit farmers, the rural economy and the environment. To finance part of that Programme, the UK has introduced modulation in order to present the funding in a fair and transparent way.

8. Modulation is the recycling of a small proportion of direct payments made to farmers under CAP commodity regimes into rural development measures. It was introduced in 2001 at a flat rate of 2.5% and will rise gradually to 4.5% in 2005. In 2003, 3.5% of your AAPS payments, after the deduction of any base area overshoot or IACS penalty, will be recycled to help fund the RDP. Every Pound recycled in this way will be matched by a further Pound from the Government and returned to the rural economy through RDP.

Payment Dates

9. Payments for cereals, linseed, oilseeds, protein crops, flax, hemp and set-aside will normally be made between **16 November 2003 and 31 January 2004**. This period is extended to 31 March 2004 for set-aside payments for land in non-food crops.

SPECIAL CONDITIONS FOR RAPESEED, LINSEED, FLAX AND HEMP

1. RAPESEED

1. Payments will **not** be made to those planting rapeseed **unless** it is **either**:

1.1 A certified seed of a variety listed in the **Common Catalogue**. In this context, **certified seed** means breeder's seed, pre-basic, basic or certified seed. It does **not** include seed entered under statutory arrangements for the early multiplication of varieties prior to their entry on a UK National List or the Common Catalogue, for which an application for the issue of a breeder's confirmation certificate has been made or for which a breeder's confirmation certificate has been issued. Aid is payable on those varieties in the Common Catalogue, including varietal associations, which have each constituent listed separately. **You are strongly advised to check the position with your local Area Office if in doubt as the AAPS eligibility of oilseed varieties can change.** Invoices, seed labels and any other supporting documents for the seed should be retained for inspection. The rules on minimum separation distances apply (see paragraph 1.3).

Or

- 1.2 **Farm-saved seed conforming to certain quality requirements.** In particular:

- (i) The seed must normally be taken from a crop **harvested in 2002** and **produced from certified seed** sown in Autumn 2001 or Spring 2002.

In exceptional circumstances, seed from the 2001 harvest may be used when **climatic** conditions dictate that sowing has to take place before harvest of the 2002 crop.

- (ii) The seed must be **sown only on the holding** (covered by the AAA) on which it was produced. If a holding changes hands **before** the farm-saved seed is sown the **new** occupier may **not** claim AAPS aid on any area in which that seed is sown. However, if the holding is taken over **after** the previous occupier's seed is sown, the in-coming occupier may claim AAPS aid on that crop.

- (iii) The seed must have been produced, stored and handled according to **good agricultural practice**. In particular:

- the seed should have been taken from an area isolated from other varieties of rapeseed and free from weeds to ensure that the seed is not contaminated;

- the seed must have been **cleaned and dressed**. Seed of different varieties or any other seed must be dealt with separately. “Cleaning and dressing” means the removal of extraneous matter, and the separation and extraction through physical means of small and broken seeds so that only a clean, bold sample remains. You should seek expert advice on whether to treat the seed with agrochemicals;
- if the seed has to leave the holding for cleaning and dressing, it is the producer’s responsibility to ensure that it remains separate from other seed lots, to avoid the risk of it being mixed with seed from other holdings. Proof of cleaning and dressing should be retained for inspection.

Or

1.3 High erucic acid rapeseed (HEAR), with a minimum erucic acid content of 40%, **grown under a contract**. The contract must be drawn up before sowing with an approved first buyer for the production of a crop for a specific non-food industrial use, or for use as seed for sowing to produce such a crop. If you are growing HEAR for non-food use on set-aside land, your contract must be with a collector/first processor. **A minimum separation distance of 50 metres between HEAR and double-zero rapeseed crops sown in the same season, whether on your own or a neighbour’s land, must be observed.** If there is no minimum separation distance, **both crops** will be considered **not to be eligible** for AAPS aid. This rule applies to non-food crops grown on set-aside as well as crops on which oilseeds aid is claimed. There is no requirement for a minimum separation distance between spring sown and winter sown crops, i.e. spring double-zero/winter HEAR or winter double-zero/spring HEAR. A copy of the contract must be submitted with the AAA. HEAR varieties are subject to the Seeds Regulations (see paragraph 1.4(iii)).

Or

1.4 Seed planted:

- (i) with the intention of producing a crop of breeder’s seed, pre-basic, basic or certified seed for sowing (including the early movement of varieties not yet added to the UK National List or the Common Catalogue, for which a breeder’s confirmation certificate has been issued); or
- (ii) **for research; or**
- (iii) **for testing purposes to determine whether the variety may be added to the UK National List.**

Seed in 1.4 above must be the subject of a contract made **before** sowing between the producer and a seed breeder, agricultural merchant or other **bona fide** contractor. Documentary evidence showing the intended use of such seed must be submitted to your local Area Office no later than your application for AAPS aid. This may include copies of seed multiplication contracts between seed producers and growers or copies

of official labels produced for such contracts, or copies of contracts with growers to produce crops for research or testing purposes. The Oil and Fibre Plant Seeds Regulations 1993, as amended, cover the certification and marketing of the seeds of oilseed rape (and linseed). If you do not know what is required under these Regulations, it is essential that you seek advice from the Department's Plants and Environment Policy (PEP) Division, Room 127, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY. One of the requirements is that the seed sown and resulting crop **must remain the property of the first person**, i.e. the National List applicant, Seed Certification applicant, Seed Merchant, Processor, Researcher or Tester, **at all times**.

Or

1.5 Seed of the varieties 'Jet Neuf' or 'Bienvenu', grown under contract with a specifically approved buyer to provide seed for oil production for a specific food use. A copy of the contract must be submitted with your AAA; the contract must be signed before sowing.

A list of the **most popular** oilseed varieties eligible for AAPS aid will be contained in the IACS Explanatory Booklet issued in the Spring. For more detailed advice, please contact your local Area Office.

2. LINSEED, FLAX AND HEMP

1. A list of the eligible linseed, flax and hemp varieties will be contained in the IACS Explanatory Booklet issued in the Spring. For more detailed advice meantime, please contact your local Area Office.

Special arrangements for fibre hemp

2. If growing hemp, you will need to obtain a licence from the Home Office, as it is a criminal offence to cultivate hemp in the UK, for any purpose, without such a licence. Unless you have made separate arrangements with the Home Office, an application for a licence should be made to:

Home Office Licensing Section
Room 239
50 Queen Anne's Gate
LONDON. SW1H 9AT
Tel: 020 7273 3731

Applications for a licence should be made as early as possible if you intend to grow hemp. In considering applications, the bona fides of the applicant and the purpose of growing the hemp, together with the proposed locations of the growing sites, will be taken into account by the Home Office Drugs Branch Inspectorate. **Licences are not issued automatically**. In particular, in selecting growing sites, you should identify land where there is poor public access and visibility of the crop, i.e. away from residential areas and major roads. Where minor roads abut the growing site, vehicular access to the site should **not** be possible. The

Home Office may also require crops to be screened and other security measures to be taken in some cases. Evidence that you have a contract to supply the hemp produced to a Home Office approved processor may also be required.

Contracts

3. Area aid in flax and hemp will **not** be paid unless a copy of the contract concluded with an authorised primary processor or a commitment to process is supplied to SEERAD. This contract or commitment is also required to enable a claim to be made for processing aid.

APPLICANTS WITH LAND IN MORE THAN ONE YIELD REGION

Note: This Appendix describes the arrangements for farmers with land in more than one yield region. This could affect you in two ways. Firstly, if you are applying for AAPS aid and are a small producer, i.e. no obligatory set-aside requirement, you will need to calculate the maximum area on which you can claim aid. Secondly, if you have a minimum set-aside requirement, there are arrangements allowing you to count set-aside land in one yield region against crops in another. For 2003 the minimum set-aside requirement is 10% for both the Scottish LFA and non-LFA.

1. SMALL PRODUCERS CLAIMING ON AN AREA WITH NO SET-ASIDE REQUIREMENT

1.1 There are limits on the area that small producers can claim under AAPS without having to set land aside. These are:

	Hectares
Scotland LFA	17.66
Scotland non-LFA	16.23
England	15.62
Wales LFA	18.22
Wales non-LFA	17.79
N Ireland LFA	18.29
N Ireland non-LFA	17.62

If your AAA includes arable land in more than one yield region, e.g. you have both Scottish LFA and non-LFA land, **and** your total claim exceeds the area limit for any one of those regions, you will need to calculate the notional production on the area on which you can claim aid.

1.2 In essence, you can only claim AAPS aid, including voluntary set-aside, on the area of land needed to produce the equivalent of 92 tonnes using the relevant average regional yields. These reference yields are:

	Tonnes/hectare
Scotland LFA	5.21
Scotland non-LFA	5.67
England	5.89
Wales LFA	5.05
Wales non-LFA	5.17
N Ireland LFA	5.03
N Ireland non-LFA	5.22

1.3 **To check that your claim is within the maximum area** to qualify as a small producer, multiply the area claimed in each yield region by its reference yield. The total should be less than or equal to 92. For example, if your claim is for 10 hectares in the Scottish LFA and

7 hectares in the Scottish non-LFA, you should multiply each of the areas claimed by their reference yields.

Scottish LFA	10 x 5.21 =	52.10
Scottish non-LFA	7 x 5.67 =	39.69
TOTAL		= 91.79

This is below the 92 tonnes threshold and you would thus qualify as a small producer.

1.4 Reducing your claim. If your claim comes to more than the equivalent of 92 tonnes, you will need to reduce it. For example, if you have 10 hectares of cereals in the Scottish LFA and 10 hectares of linseed in the Scottish non-LFA, your total area of eligible arable crops (in all regions) exceeds the limit for the regions you are farming in. Your total production using the reference yields is the area in each region multiplied by its reference yield:

$$(10 \times 5.21) + (10 \times 5.67) = 108.8 \text{ tonnes}$$

This is 16.8 tonnes (i.e. $108.8 - 92$) above the 92 tonnes threshold for the exemption from the requirement to have set-aside. You should thus reduce 16.8 tonnes of production from your claim.

If you choose to reduce only the Scottish LFA element of your claim, this would amount to 16.8 divided by the reference yield, i.e.:

$$\frac{16.8}{5.21} = 3.23 \text{ hectares (which is the area by which you have to reduce your LFA claim)}$$

Alternatively, if you choose to reduce only the Scottish non-LFA element of your claim you would have to divide 16.8 by the non-LFA reference yield, i.e.:

$$\frac{16.8}{5.67} = 2.96 \text{ hectares (which is the area by which you would have to reduce your non-LFA claim)}$$

Thus you could make your claim as a small producer on either:

- 10 hectares of cereals in the Scottish LFA plus 7.04 hectares of linseed ($10 - 2.96$) in the Scottish non-LFA; **or**
- 10 hectares of linseed in the Scottish non-LFA plus 6.77 hectares of cereals ($10 - 3.23$) in the Scottish LFA.

Other combinations of land in the two regions that meet the 92 tonnes ceiling would also be possible.

If your claim exceeds the 92 tonnes ceiling and you do not reduce it, your claim will be

reduced pro rata and you will be paid on an area equivalent to the 92 tonnes limit. We will not pay on the excess – and you would not subsequently be able to claim it as part of your forage area.

1.5 If you are uncertain about how much land you can claim on, please seek professional advice or consult your local Area Office. If your claim exceeds the 92 tonnes limit and you have insufficient set-aside to support the cropping elements of your claim, we will scale back your claim to the area supported by the eligible set-aside **or** to the maximum area that can be claimed by a small producer, whichever is the greater.

2. APPORTIONMENT OF OBLIGATORY SET-ASIDE BETWEEN YIELD REGIONS

2.1 If you are claiming AAPS aid on an area above the small producer limit on land located in more than one yield region, **you will normally have to apportion your set-aside requirement within each of those regions**, in accordance with the size of the cropped area claimed in each region. (However, see paragraph 2.3).

2.2 For example, if you are claiming for 60 hectares of crops on Scottish non-LFA land and for 40 hectares of crops on Scottish LFA land, your set-aside requirement must normally be met in each yield region. For 2003 this means:

$$\text{Scotland LFA:} \quad 40 \times \frac{10}{90} = 4.444 = 4.45$$

$$\text{Scotland non-LFA:} \quad 60 \times \frac{10}{90} = 6.666 = 6.67 \quad (\text{as above})$$

The same would apply, for example, if you had a unit in the Scottish LFA and another in England. (Please refer to Appendix 1 for examples of how to calculate your set-aside requirement in 2003.)

2.3 However, there is an **exception** to the general requirement to meet your set-aside requirement within each yield region:

If you have land in adjoining yield regions with different reference yields, you may meet your set-aside requirement in a single yield region, provided that the set-aside area to be offset is adjusted to take account of the differences in reference yields between the regions. When offsetting your set-aside obligation from either of the Scottish yield regions or from England, the area concerned must be multiplied by the factors in the table on page 54.

NB: Please note that this does not apply to Northern Ireland and Wales since the yield regions are not adjoining.

<u>Offsetting set-aside from Scotland non-LFA to:</u>	<u>Factor</u>
Scotland LFA	1.00
England	1.04
<u>Offsetting set-aside from Scotland LFA to:</u>	<u>Factor</u>
Scotland non-LFA	1.09
England	1.13
<u>Offsetting set-aside from England to:</u>	<u>Factor</u>
Scottish LFA	1.00
Scottish non-LFA	1.00

2.4 When calculating your offsetting set-aside requirement, you must treat the offset set-aside as shown in the examples below.

In the first two examples given below, the area of set-aside land offset in Scottish LFA to account for cropped land in the Scottish non-LFA is calculated on the basis of the set-aside requirement in respect of the area of non-LFA cropping claimed *less* the area of non-LFA set-aside (if any) *multiplied* by the 1.09 factor as above. A similar calculation would be required if offsetting set-aside in either of the Scottish yield regions against cropped land in England. In the other two examples, the area of set-aside land offset in the Scottish non-LFA to account for cropped land in the Scottish LFA is calculated on the basis of the set-aside requirement in respect of the area of LFA cropping claimed *less* the area of LFA set-aside (if any). As per offsetting set-aside in England against either of the Scottish yield regions, there is no need to apply a factor in these examples as the set-aside is being offset in a yield region with a higher reference yield.

2.5 If, in 2003, you farm and claim for 100 hectares in both the Scottish LFA and non-LFA yield regions, your claim would normally be for a minimum set-aside requirement of 10 hectares in both the LFA and non-LFA. This means that for the cropping elements of your claim to qualify in full for AAPS aid, they would thus normally have to be restricted to a maximum of 90 hectares in each yield region.

Example 1

In 2003, you farm and claim for 100 hectares in the Scottish LFA and 100 hectares in the Scottish non-LFA yield regions. If you decide to site all of your set-aside in the Scottish LFA, you must adjust your AAPS claim as follows:

- Your claim in the Scottish non-LFA would be for 100 ha of cropped land.
- The set-aside requirement for the 100 ha of non-LFA cropping is:

$$100 \times (10 \div 90) = 11.12 \text{ ha}$$

(rounded up from 11.111)

- As you have no non-LFA set-aside and the LFA region has a lower reference yield, the 11.12 ha requirement must be multiplied by a factor of 1.09 to obtain the area to be set-aside in the LFA region:

$$11.12 \times 1.09 = 12.13 \text{ ha}$$

(rounded up from 12.121)

- Your claim in the Scottish LFA region would therefore be reduced to:

$$100 - 12.13 = 87.87 \text{ ha}$$

- The 87.87 ha includes the area of LFA land you want to claim cropping and set-aside payments on. Therefore, the minimum set-aside requirement for the LFA land is:

$$87.87 \times 10\% = 8.79 \text{ ha}$$

(rounded up from 8.787)

- In summary, your overall AAPS claim for 2003 would be:

- 100 ha of non-LFA cropping
- a maximum of 79.08 ha of LFA cropping (87.87 – 8.79)
- a minimum of 20.92 ha of LFA set-aside (8.79 + 12.13)

Please note that if you opt to offset your set-aside requirement and have insufficient set-aside to support the whole of the cropping elements of your claim, then the yield region which has sufficient set-aside will be paid in full and the set-aside excess in that region will be used to determine the supported cropping area in the other yield region(s).

Example 2

In 2003, you farm and claim for 100 hectares in the Scottish LFA and 100 hectares in the Scottish non-LFA. If you decide to site 2 hectares of your set-aside in the Scottish non-LFA and the remainder in the Scottish LFA, you must adjust your AAPS claim as follows:

- Your claim in the Scottish non-LFA would be for 98 ha of cropped land and 2 ha of set-aside.
- The set-aside requirement for the 98 ha of non-LFA cropping is:

$$98 \times \frac{10}{90} = 10.89 \text{ ha}$$

(rounded up from 10.888)

- As you have 2 ha of non-LFA set-aside, your offset requirement to the LFA region is:

$$10.89 - 2 = 8.89 \text{ ha}$$

- As the LFA region has a lower reference yield, the 8.89 ha requirement must be multiplied by a factor of 1.09 to obtain the area to be set-aside in the LFA:

$$8.89 \times 1.09 = 9.69 \text{ ha}$$

- Your claim in the Scottish LFA would thus be reduced to:

$$100 - 9.69 = 90.31 \text{ ha}$$

- The 90.31 ha includes the area of LFA land you want to claim cropping and set-aside payments on. Therefore, the minimum set-aside requirement for the LFA land is:

$$90.31 \times 10\% = 9.04 \text{ ha}$$

(rounded up from 9.031)

- In summary, your overall AAPS claim for 2003 would be:

- 98 ha of non-LFA cropping
- 2 ha of non-LFA set-aside

- a maximum of 81.27 ha of LFA cropping
(90.31 – 9.04)

- a minimum of 18.73 ha of LFA set-aside
(9.69 + 9.04)

Please note that if you opt to offset your set-aside requirement and have insufficient set-aside to support the whole of the cropping elements of your claim, then the yield region which has sufficient set-aside will be paid in full and the set-aside excess in that region will be used to determine the supported cropping area in the other yield region(s).

Example 3

In 2003, you farm and claim for 100 hectares in the Scottish LFA and 100 hectares in the Scottish non-LFA. If you decide to site all of your set-aside in the Scottish non-LFA, you must adjust your AAPS claim as follows:

- Your claim in the Scottish LFA would be for 100 ha of cropped land.
- Your **total** set-aside requirement for the 100 ha of LFA and 100 ha of non-LFA is:

$$200 \text{ ha} \times 10\% = 20 \text{ ha}$$

- As the non-LFA region has a higher reference yield, there is no need to apply a factor to the non-LFA land being set aside in respect of LFA crops.

- Your claim in the Scottish non-LFA region would therefore be reduced to:
 $100 - 20 = 80$ ha
- The 80 ha is the maximum area of non-LFA land you can claim cropping on.
- In summary, your overall AAPS claim for 2003 would be:
 - 100 ha of LFA cropping
 - a maximum of 80 ha of non-LFA cropping
 - a minimum of 20.00 ha of non-LFA set-aside

Please note that if you opt to offset your set-aside requirement and have insufficient set-aside to support the whole of the cropping elements of your claim, then the yield region which has sufficient set-aside will be paid in full and the set-aside excess in that region will be used to determine the supported cropping area in the other yield region(s).

Example 4

In 2003, you farm and claim for 100 hectares in the Scottish LFA and 100 hectares in the Scottish non-LFA. If you decide to site 3 hectares of set-aside in the Scottish LFA and the remainder in the Scottish non-LFA, you must adjust your AAPS claim as follows:

- Your claim in the Scottish LFA would be for 97 ha of cropped land and 3 ha for set-aside.
- Your **total** set-aside requirement for 100 ha of LFA and 100 ha of non-LFA is:
 $200 \text{ ha} \times 10\% = 20 \text{ ha}$
- As you have 3 ha of LFA set-aside, your requirement in the non-LFA is:
 $20 - 3 = 17 \text{ ha}$
- As the non-LFA region has a higher reference yield than the LFA region, there is no need to apply a factor to the non-LFA land being set aside in respect of LFA crops.
- Your cropping claim in the Scottish non-LFA would thus be reduced to:
 $100 - 17 = 83 \text{ ha}$
- The 83 ha is the maximum area of non-LFA land you can claim cropping on.
- In summary, your overall AAPS claim for 2003 would be:
 - 97 ha of LFA cropping
 - 3 ha of LFA set-aside

- a maximum of 83 ha of non-LFA cropping (100-17)
- a minimum of 17 ha of non-LFA set-aside

Please note that if you opt to offset your set-aside requirement and have insufficient set-aside to support the whole of the cropping elements of your claim, then the yield region which has sufficient set-aside will be paid in full and the set-aside excess in that region will be used to determine the supported cropping area in the other yield region(s).

2.6 If you have any doubts on the application of these rules, please seek professional advice or consult your local Area Office.

SELECTING YOUR SET-ASIDE LAND

INTRODUCTION

1. In all cases, the land **must** be AAPS eligible (see paragraphs 11-25 in Section B).
2. With the appropriate choice of site and management, set-aside can be used to meet agronomic objectives, benefit wildlife, provide public access and protect archaeological features. You need to decide upon your objectives and then choose your site and management regime accordingly. You should take account of features, wildlife and agronomic problems on your own or on neighbouring land. You may wish to seek independent professional advice.
3. **Plan your set-aside to maximise both the agronomic and the environmental benefits.** You will need to consider:
 - whether you will leave the set-aside land in one place or move it around;
 - where you will position it;
 - what cover you will choose; and
 - how you will manage it.

You will also wish to take account of the opportunities presented on your farm including factors such as soil type, history of the land, neighbouring features, wildlife and archaeological sites in the area.

WHETHER OR NOT TO MOVE YOUR SET-ASIDE

4. **Where suitable land is left in set-aside over several years it can bring 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.
5. On the other hand, **moving your set-aside can also offer environmental benefits,** particularly if it follows cereals and the stubbles are allowed to regenerate over winter to provide feeding grounds for birds. With appropriate management, natural regeneration can provide floral diversity. In addition, rotating your set-aside can provide an effective break to reduce the populations of the more aggressive weeds and to combat diseases.

SITING YOUR SET-ASIDE

Wildlife Benefits

6. **For wildlife, set-aside land is best sited next to or linking existing important areas** such as woods and hedges, unimproved grazing land, rivers, lochs, lakes, streams and moorland, 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. (Scottish Natural Heritage can advise on SSSIs and other important sites.) Placed next to such areas, set-aside will act as a buffer to protect them. However, aggressive species on poorly managed set-aside could colonise a fragile SSSI. Most birds will gain maximum benefit from a variety of relatively small plots of set-aside across the farm, although a few require larger areas.

7. If set-aside is used **to link existing features**, not only are new habitats created within the set-aside land itself, but also beneficial “corridors” are created for wildlife.

Field Margins and Headlands

8. **Provided they meet the minimum width of 20 metres, setting aside field margins and headlands can offer 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 hedgerows and small woodlands; or provide new ones, e.g. rough uncultivated strips that are vital as hunting grounds for barn owls and other important predators of crop pests. Setting aside field margins also allows easier access to maintain features such as hedges and ditches.

Short Rotation Coppice

9. Short rotation coppice (SRC) can have a significant effect on the landscape. You should therefore take care to blend the coppice area into the landscape. In particular, you should:

- avoid sites of wildlife and archaeological interest;
- blend SRC into the landscape by avoiding strong rectangular or geometric shapes;
- consider groups, rather than isolated pockets, of SRC stands;
- consider the variation in heights which will occur throughout the coppice growing period;
- make use of existing trees and other features to blend the coppice into the landscape;
- ensure that interesting views and landscape features are not lost as a result of areas being planted next to public rights of way; if the land is crossed by a public right of way, consider how best this can be integrated into the layout;

- wherever possible, plant without ploughing to avoid soil disturbance; if it is necessary to plough ensure that the furrows follow the natural contour; and
- where the planting area includes a watercourse, leave an unplanted strip along the bank.

Note: SRC may qualify for an establishment grant under the Woodland Grant Scheme (WGS) but **not** for annual payments under the FWPS. To qualify for the WGS, SRC planting must be in accordance with the WGS environmental guidelines. Growers may set aside more than 50% of the area claimed under the AAPS provided that **all** of their set-aside is used for multi-annual crops for biomass production.

10. For further advice on planting and managing SRC you are advised to consult the Forestry Commission, and their publication “Forest Practice, Advice Note 1”.

Hedge Management

11. Set-aside land can be used to benefit the management of your hedges and to increase 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.

12. A variety of hedge heights and shapes across your farm will maximise wildlife benefit – 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; for example, trim on a 2 or 3 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 headland between the hedge and the crop will provide a habitat for predators of crop pests and nesting areas for birds such as partridges.

Nitrate Leaching/Soil Erosion

13. If part of your land is in a Nitrate Vulnerable Zone (NVZ), siting your set-aside within the NVZ will help reduce nitrate leaching. **Siting your set-aside land next to a watercourse will help to reduce accidental run-off of pesticides and fertilisers.**

14. In **areas prone to soil erosion**, siting set-aside on particularly vulnerable fields, or parts of fields, may help to reduce erosion and pesticide and fertiliser run-off.

Archaeological Sites

15. **Set-aside can help to protect archaeological remains and deposits from further disturbance or erosion from cultivation.** Archaeological sites survive in arable land in 3 ways: as visible, upstanding areas which have not been ploughed in the recent past; as sites with no upstanding features but with buried remains visible from the air (cropmarks); and as sites which combine upstanding and cropmark remains. If you have an archaeological site on

your arable land, keeping it in set-aside can improve its condition. Setting aside land adjacent to such sites, e.g. burial mounds preserved as “islands” in arable cropping, can enhance the site’s setting. Set-aside can also improve access.

16. If archaeological sites are set aside, sowing to grass is likely to be the most suitable method of management. Planting or regeneration of woodland and scrub would not be appropriate. If natural regeneration is used, care must be taken not to allow scrub to develop, as deep-rooted vegetation can cause damage. The key requirements are to ensure that the ground surface is not broken, that some form of green cover is maintained and that the cover is cut at least once a year to prevent development of scrub. The timing of the cut should ideally reflect local conditions, e.g. the presence of ground-nesting birds, and the flowering of any rarer species of flowers; **to protect ground-nesting birds it is recommended that cutting be delayed, if possible, until mid-June.** An exemption from the management rules would be needed to conduct any excavations on the site, as this would destroy the cover; this exemption would be in addition to the usual consent required from Historic Scotland.

17. Information about the location, extent and importance of archaeological sites can be obtained from the appropriate Local Authority Archaeologist or from Historic Scotland. An information leaflet, “Archaeological Information and Advice in Scotland”, is available from Historic Scotland free of charge.

NON-FOOD SET-ASIDE - TABLES 1-3: CN CODES AND DESCRIPTIONS

1. 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. Some have special conditions next to their name, such as rapeseed, and these must be observed. In 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 that fall under the code. Not all these crops have readily apparent non-food uses. 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 AAPS payment on any set-aside land used to grow these three crops.**

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 (eg, <i>Kenaf</i> , <i>Hibiscus</i> , <i>Cannabinus L.</i> and <i>Cheopodium</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 arvense L.</i>) other than those for sowing.
	0713 50 00	Broad beans other than those for sowing.
Ex	0714 90	Jerusalem artichokes (provided that they do not undergo the process known as hydrolysis as defined by Commission Regulation (EEC) No 1443/82, either in their 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; juniper berries.
	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.
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.
	1201 20 00	Shelled groundnuts.
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 Articles 4(1) and 4(2)(a), (b) and (e) of Commission Regulation (EC) No 2316/1999).
	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 oilseeds 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 they do not undergo the process known as hydrolysis as defined by Commission Regulation (EEC) No 1443/82, either in their 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.
	Chapter 14	Vegetable plaiting, stuffing or padding materials, or those used in brooms or brushes; vegetable products not elsewhere specified or included (eg, Broomcorn (<i>Sorghum vulgare var. technicum</i>)).
Ex	5302 10 00	True hemp, raw or retted, for processing into products not covered by Regulation (EC) No 1673/2000.

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 OR FOR THE DIRECT USE OF THE CLAIMANT**

In 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 the 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 multi-annual plants, eg, <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 falling within Chapters 25-99 of the combined nomenclature;
- all of the 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 the provisions of Article 15(4) of Commission Regulation (EEC) No 2461/1999 as amended;
- mushroom spawn covered by 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 Annex I and products derived therefrom by an intermediary process and used as fuel for energy production;
- all products listed in Annex II 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;
- all products referred to in Commission Regulation (EEC) No 1722/93 as last amended by Regulation (EC) No 87/1999, 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 last amended by Commission Regulation (EC) No 1148/98, on condition that they are not obtained from sugar beet, or contain products derived from sugar beet, cultivated on set-aside land.

MULTI-ANNUAL SET-ASIDE

1. You may, under certain circumstances, enter your land into Multi-Annual Set-Aside. This option provides for the same land to be set aside for up to 5 years whilst guaranteeing that you will not be adversely affected by any decreases in the basic aid rate (in €) or any reduction in the yield under the regionalisation plan.
2. If you wish to enter land into a multi-annual set-aside agreement, you need to complete a Form IACS 22 (2003) which is available from your local Area Office 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 23 (2003) should be submitted to your local Area Office at any time. Further information on the preparation of a management plan is given in Leaflet AAP (2003) MAS/MP.
3. Depending on your status you may enter agreements for periods of 3, 4 or 5 years:
 - If you are an owner-occupier or a tenant farmer **with 5 or more years of your tenancy left**, then your agreement can be for a period of 3, 4 or 5 years.
 - If you are a tenant farmer with **LESS than 5 years of your tenancy left** you may enter an agreement to cover the remaining complete Scheme years of your tenancy - subject to a **minimum** of 3 Scheme years.
4. If you are a tenant you are advised to consult your landlord before entering into a multi-annual set-aside agreement. If you are farming on a short term tenancy of less than 3 years it would not be advisable to enter into a multi-annual set-aside agreement unless you have written assurance that the tenancy will be renewed.
5. Other than land used to grow non-food crops such as short rotation coppice, (where the rules in paragraphs 155-158 apply), land entered into multi-annual set-aside must be managed in accordance with:
 - The management rules in paragraphs 77-119; or
 - A management plan which has been approved by your local Area Office.
6. 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 multi-annual 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 multi-annual agreement.
7. The commitment under multi-annual set-aside **relates to the land**. If occupancy of the land changes during the 3 or 5 year agreement period, the new occupant may take over the agreement for the remainder of the agreement period (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.

8. If a new holder of a multi-annual set-aside agreement fails to observe the terms of the agreement at any point during the remainder of the agreement period, penalties for early withdrawal will be applied. Farmers wishing to transfer their multi-annual set-aside agreement are therefore strongly advised to seek professional advice before entering into any such arrangements.

9. If you intend to withdraw from a multi-annual set-aside agreement, or transfer the agreement to another farmer, you must complete a Form IACS 24 (2003). Where the agreement is being transferred, both parties must sign the form. The form must be submitted to your local Area Office **within 3 months** of the transaction taking place, or 15 May if sooner.

10. The EU Regulation states that where a producer deliberately goes back on an agreement before it ends, penalties will apply. This means that the agreement must be honoured for the full 3 or 5 years, except where:-

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

11. A producer may leave an agreement or reduce the area covered by it without penalty in the circumstances described at paragraph 9. However, a penalty will be applied for any plot withdrawn if a producer fails to:-

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

The penalty will be calculated as follows:-

Area x (set-aside payment rate x 5%) x the number of years left in the agreement.

SEERAD AREA OFFICES AND OTHER GOVERNMENT CONTACT POINTS

The holding number(s) of your farm should be quoted on any correspondence with the Department.

HEAD OFFICE ADDRESS:

Scottish Executive Environment and Rural Affairs Department

Division CAPM 2
Pentland House
47 Robb's Loan
Edinburgh
EH14 1TY

AYR:

Russell House
King Street
Ayr
KA8 0BE
Tel No: 01292 610188

BENBECULA:

Argyll and Western Isles
Sub Office
Balivanich
Isle of Benbecula
HS7 5LA
Tel No: 01870 602346

DUMFRIES:

SEERAD
Southern Area Office
161 Brooms Road
Dumfries
DG1 3ES
Tel No: 01387 255292

DUNDEE:

SEERAD Area Office
Northern College of Education Buildings
Gardyne Road
Broughty Ferry
Dundee
DD5 1PE
Tel No: 01382 465300

ELGIN:

32 Reidhaven Street
Elgin
IV30 1QH
Tel No: 01343 547514

GALASHIELS:

Cotgreen Road
Tweedbank
Galashiels
TD1 3SG
Tel No: 01896 758333

HAMILTON:

Cadzow Court
3 Wellhall Road
Hamilton
ML3 9BG
Tel No: 01698 281166

INVERNESS:

Longman House
28 Longman Road
Inverness
IV1 1SF
Tel No: 01463 234141

INVERURIE:

Thainstone Court
By Inverurie
Aberdeenshire
AB51 5YA
Tel No: 01467 626222

KIRKWALL:

Tankerness Lane
Kirkwall
Orkney
KW15 1AQ
Tel No: 01856 875444

LAIRG:

Ord Croft
 Lairg
 Sutherland
 IV27 4AZ
 Tel No: 01549 402167

LERWICK:

Charlotte House
 Commercial Road
 Lerwick
 ZE1 0HZ
 Tel No: 01595 695054

OBAN:

Argyll and Western Isles Area Office
 Cameron House
 Albany Street
 Oban
 PA34 4AE
 Tel No: 01631 563071

PERTH:

1 Mill Street
 Perth
 PH1 5JE
 Tel No: 01738 443266

PORTREE:

Highland Area Sub Office
 Estates Office
 Portree
 Isle of Skye
 IV51 9DH
 Tel No: 01478 612516

STIRLING:

Government Buildings
 2 St Ninians Road
 Stirling. FK8 2HR
 Tel No: 01786 473272

STORNOWAY:

Argyll and Western Isles Area
 Sub Office
 10 Keith Street
 Stornoway
 Isle of Lewis. HS1 2QG
 Tel No: 01851 702392

THURSO:

Strathbeg House
 Clarence Street
 Thurso. KW14 7JS
 Tel No: 01847 893104

Other Agricultural Departments and Rural Payments Agency**England**

Department for Environment, Food and
 Rural Affairs
 Nobel House
 17 Smiths Square
 London SW1P 3JR
 Tel: 020 7238 1215/5463
 Fax: 020 7238 6107

Northern Ireland

Department of Agriculture and
 Rural Development
 Dundonald House
 Upper Newtownards Road
 Belfast. BT4 3SB
 Tel: 028 9052 0813
 Fax: 028 9052 4266

Wales

CAPM Division
 National Assembly for Wales
 Agriculture Department
 Ffynnon Las
 The Orchards, Ilex Close
 Ty Glas Avenue
 Llanishen.
 Cardiff. CF14 5EZ
 Tel: 02920 752222
 Fax: 02920 681382

Rural Payments Agency

PO Box 69
 Kings House, Kings Road
 Reading. RG1 3YD
 Tel: 0118 958 3626 Ext 7712
 Direct Line: 0118 968 7712
 Fax: 0118 968 7734
 Contact: Mrs Julie Withington

