



Terms and conditions of the
RURAL ENVIRONMENT PROTECTION SCHEME
(REPS)

Introduced by
the
MINISTER FOR AGRICULTURE AND FOOD
in implementation of
Council Regulation (EC) No. 1257/1999 as amended by
Council Regulation (EC) No. 1783/2003

DATE: 5 February 2004

A Measure included in the CAP Rural Development Plan, co-funded under the National Development Plan 2000–2006 and the European Agricultural Guidance and Guarantee Fund of the European Union.



**Department of Agriculture
and Food**

1 General Outline and Legal Basis

- 1.1 These are the administrative provisions for the implementation of the Rural Environment Protection Scheme (REPS) in Ireland which have been drawn up in accordance with a programme approved under Council Regulations (EC) No. 1257/1999 and 1783/2003 and as may be amended or repealed.
- 1.2 They constitute the framework for the application of the detailed rules contained in Commission Regulations (EC) Nos. 445/2002 and 817/2004 and should be read in conjunction with the Specification for REPS Planners and/or REPS Farmer's Handbook published separately. In accordance with the terms of Article 8 of Council Regulation (EC) No. 1257/1999 as amended by Council Regulation (EC) No 1783/2003 they apply both to approved planning agencies and to participants in the Scheme.

2 General Provisions

- 2.1 The Scheme shall be administered by the Department of Agriculture and Food and shall operate throughout the State. Measure A shall be mandatory on target area lands as defined in paragraph 10 hereunder.
- 2.2 The Scheme is jointly funded by the European Union and the National Exchequer. Exchequer funding is contingent on appropriate recoupment of eligible expenditure from the EU.
- 2.3 The Scheme shall come into operation on 5th February 2004.
- 2.4 Participants in the Scheme must carry out their farming activities under an agri-environmental plan prepared in accordance with the Department of Agriculture and Food's Specifications for REPS Planners.
- 2.5 Participation in the Scheme is voluntary.

3 Definitions

For the purpose of this Scheme: –

“**APPLICATION**” shall mean an application for a five-year contract under the Scheme accompanied by an agri-environmental plan and related documents, prepared by an approved planner/planning agency in accordance with the terms and conditions set out herein and with the Specification for REPS Planners;

“**APPROVED**” shall mean approved by the Minister or by an officer authorised by the Minister to convey his approval;

“**COMMONAGE**” which may be eligible for payment shall mean lands held in common ownership for which a Commonage Framework Plan has been/is in the process of being prepared;

“**CONTRACT AREA**” shall mean all lands farmed by the applicant which meet the eligibility conditions as per Paragraph 7.2 below.

“**DEPARTMENT**” shall mean the Department of Agriculture and Food;

“**FAMILY MEMBER**” shall mean Spouse, Parent, Brother, Sister, Son, Daughter, Grandchild or favoured nephew/niece;

“**FARM**” or “**HOLDING**” shall mean all the production units in the State (owned, leased, and rented) that are under the control of the applicant.

“**FARMER**” shall mean an individual agricultural producer, whether a natural or legal person or a group of natural or legal persons, whatever legal status is granted the group and its members by national law, whose holding is within the State.

“**FARMING**” shall include dairy farming, livestock production, the cultivation of grass and tillage crops and the growing of horticultural crops.

“**GRAZING RIGHTS**” shall mean lands on which persons have grazing entitlements;

“**LEASE**” shall mean a term of years absolute in possession for at least 5 years from the commencement date of the Agri-environmental commitment under the Scheme¹;

“**MINISTER**” shall mean the Minister for Agriculture and Food;

“**PLANNER**” shall mean a person qualified and approved by the Department for the purpose of this scheme.

“**RENTED**” shall mean lands taken and farmed for periods of less than five years;

“**RIPARIAN ZONE**” shall mean a river or lakeside margin designated by an appropriate body and unaffected by grazing or trampling by livestock with a minimum average width of 10 metres and a maximum average width of 30 metres;

“**SCHEME**” shall mean the Rural Environment Protection Scheme.

4 Objectives of Scheme

The objectives of the Scheme include:

- establishing farming practices and production methods which reflect the need for environmental conservation and protection,
- protecting and enhancing wildlife habitats and endangered species of flora and fauna,
- producing quality food in an extensive and environmentally friendly manner.

5 Approved Planning Agencies

- 5.1 Agri-environmental plans shall be prepared by a planner/planning agency approved for this purpose by the Minister for Agriculture and Food. Each approved planner/planning agency shall be subject to the conditions of approval set down by the Department. Each planner/planning agency shall have the appropriate professional qualifications and have completed the necessary training course(s) as determined by the Department. A list of approved planners/planning agencies shall be maintained by the Department and will be reviewed on a regular basis.
- 5.2 A farmer who wishes to apply to join the Scheme is free to choose any approved planner/planning agency from the approved list.
- 5.3 A selection of all plans/applications submitted under the Scheme will be subject to detailed assessment by the Department. This selection will take into account a number of risk factors, one of which will be the recent planning record of the planner/planning agency that prepared the plan. If plans prepared by a planner/planning agency in a particular year do not meet the requirements of the Specification for REPS Planners and/or these Terms and Conditions and are found to contain serious deficiencies, the Department will take such deficiencies/failings into account as an increased risk factor in selecting plans for audit in the following year. The submission of deficient plans/applications by any planner/planning agency will therefore result in a significantly increased risk of that planner’s/planning agency’s plans being selected for audit.
- 5.4 Where a planner or planning agency repeatedly prepares plans that do not meet the requirements of the Specification for REPS Planners and/or Terms and Conditions and which are found to contain serious deficiencies, the Minister reserves the right: –
- to refuse to accept new plans prepared by the planner/planning agency concerned and/or

¹ (Note: it is recommended that at the date of lodgement of the application the unexpired period for a lease should be 5 years six months to ensure that the minimum period of 5 years from the date of approval can be complied with.)

- to make acceptance of further plans prepared by the planner/planning agency concerned conditional on the submission of a specific number of training plans for critical assessment by the Department and/or the successful completion of an appropriate training course.

6 Conditions for the Grant of Aid

6.1 Payments shall be made in respect of applicants who make a valid application and are farming in accordance with an agri-environmental plan prepared by an approved planner in compliance with: –

- all relevant EU requirements and national legislation for the time being in force,
- the Department's Specifications for REPS Planners, and
- the conditions set out in this document.

Applicants are also required to comply with the REPS Farmer's Handbook and to follow Good Farming Practice on all of the holding,

7 Eligibility

7.1 (a) To be eligible to participate in the Scheme, a farmer shall:

- be farming at least 3 hectares owned or leased excluding commonage and grazing rights (unless with the prior approval of the Department), or 1 hectare in the case of small scale organic fruit or vegetable producers (excluding areas under associated tourism and craft activities),
- be aged eighteen years or over,
- undertake to implement, for 5 years, Measures 1 to 11 together with a minimum of two of the undertakings as set out in ANNEX 6 and, where applicable, Measure A,
- include all of the land farmed (owned, leased, rented or used) by him/her in the agri-environmental plan,
- have all lands farmed included in Integrated Administration and Control System (IACS) and include all IACS / Land Parcel Identification System (LPIS number(s)) and areas in the agri-environmental plan,
- include his/her Personal Public Service Number (PPSN) on application form.
- have a farm unit which has not, in the opinion of the Minister or his officials, been created for the purpose of claiming or increasing payments under the Scheme (see ANNEX 2 for further details).

(b) An applicant who is not the owner/leaseholder/beneficial occupier of land involved shall only be admitted to the Scheme if s/he is a family member who is managing the land and such an application can only be made with the written permission of the landowner(s). Such permission must refer to all of the lands owned by the landowner(s) in question and must be in compliance with paragraph 7.1(a) above.

(c) Land Beneficially Owned or Occupied: An applicant who is not the owner/leaseholder of land involved shall only have these lands included for payment in the scheme if s/he is managing the land. The participant must be in undisputed possession of the land and be prepared to provide a sworn affidavit to this effect if required by the Department.

(d) Additional conditions apply to farmers with commonage land/grazing rights and non-commonage target lands (see ANNEX 3 and ANNEX 5).

(e) Where a plan provides for the grazing of livestock owned by others, such grazing shall be restricted as outlined in the plan and the REPS Farmer's Handbook.

- 7.2 All of the land farmed by an eligible applicant that meets the conditions set out in ANNEX 3 and 5 is eligible for payment with the exception of the following:
- commonage shares and grazing rights that do not meet the eligibility conditions set out in ANNEX 5;
 - rented or leased land where the unexpired lease period is less than five years from the commencement date of the agri-environmental plan under the scheme;
 - setaside as declared on his/her annual area aid application;
 - dwelling house including associated buildings and grounds not used for farming;
 - public roads and lakes, if any;
 - all land on which forestry premia is being paid under Regulations (EEC)No 2080/92 and 2328/91 and 1257/1999 and 1783/2003, and commercial forestry;
 - land held in fee simple, subject to turbary rights other than where these rights are held by the Department of Agriculture and Food (Lands Division) or under certain circumstances as described in ANNEX 3;
 - lands not declared annually on IACS and/or not under the control and management of the applicant for the duration of the REPS contract;
 - Dealers' premises as defined under SI 79/2001.

8 Application Procedure

- 8.1 The farmer shall engage an approved planner/planning agency to have an agri-environmental plan prepared. The specified documentation including the appropriate application form and the required plan and maps, shall be submitted to the Department's Local AES Office within six months of the date on which the planner prepared the plan.

9 Measures to be undertaken

- 9.1 The measures to be carried out shall be set out in an agri-environmental plan, prepared by an approved planner/planning agency, in compliance with the Specification for REPS Planners and these Scheme terms and conditions.
- 9.2(a) Participants in the Scheme shall undertake the following basic measures as appropriate:
- - (i) follow a farm nutrient management plan prepared for the total area of the farm,
 - (ii) adopt an appropriate grassland management plan for the total area of the farm,
 - (iii) protect and maintain all watercourses, waterbodies and wells,
 - (iv) retain wildlife habitats,
 - (v) maintain farm and field boundaries,
 - (vi) restrict the use of pesticides and fertilisers in and around hedgerows, lakes, ponds, rivers and streams,
 - (vi) protect features of historical and/or archaeological interest,
 - (viii) maintain and improve the visual appearance of the farm and farmyard,
 - (ix) produce tillage crops respecting environmental principles.
 - (x) undertake training in environmentally friendly farming practices,
 - (xi) prepare, monitor and update agri-environmental plan in consultation with the Planner and keep such farm and environmental records as may be prescribed by the Minister.
- 9.2(b) In addition to the basic measures, the participant must choose two of the undertakings set out in ANNEX 6, at least one of which is from Category 1.

10 Measure A – Conservation of Natural Heritage

10.1 This additional measure is mandatory for participants in the general REPS Programme where all or part of the lands farmed are in one or more of the following target areas:

- Natural Heritage Areas (NHAs) proposed or designated by the Minister for Environment, Heritage, and Local Government;
- Farmland-based Special Areas of Conservation (SACs) designated under Council Directive 92/43/EEC on the Conservation of Natural Habitats or Special Protection Areas (SPAs) designated under Council Directive 79/409/EEC on the protection of Wild Birds;
- Commonages.

11 Non-Commonage Target Land

11.1 Participants in the Scheme farming in non-commonage NHAs, SACs and SPAs must comply with the farming conditions for these specific areas.

11.2 Farming conditions for certain specific habitat types are set out in the Specification for REPS Planners and Farmer's Handbook. For other habitat types, appropriate environmental conditions shall be set down in the plan and accompanied by an appropriate environmental report.

12 Commonages and Areas subject to Grazing Rights

12.1 REPS plans for Measure A lands which include commonage/grazing rights must comply with the Framework Plan prepared for each commonage/grazing rights area as approved by both the Department of Agriculture and Food and the Department of Environment, Heritage and Local Government.

12.2 Each shareholder must comply with the provisions of the framework plan in proportion to his/her share of the commonage. Shareholders may not exercise other shareholders' rights. Each applicant to the Scheme will be required to submit a detailed REPS plan for all land farmed and this plan must comply fully with the criteria of the framework plan in the case of commonage shareholders.

12.3 The planner shall take into account further requirements which are set out in the Specification for REPS Planners.

12.4 The maximum stock numbers allowed on the total farm shall be set out in the agri-environmental plan and shall be in accordance with the framework plan. The maintenance of the planned stock numbers inside the target area shall not be achieved by an increase in the stocking density of the other lands of the farm. Livestock shall be distributed on the farm to avoid both over and under-grazing of the forage area. Where a commonage framework plan is pending, reductions in ewe numbers shall be determined by the approved planner when drawing up a REPS plan.

13 Non-Commonage Target land farmed outside the General REPS Programme

13.1 Farmers with non-commonage land in a target area (NHA, SPA or SAC) who are not applying to participate in the general REPS Programme may opt for payment (payment rates in ANNEX 4) on target area land, subject to complying with the following conditions:

- farm all the land in the target area in accordance with the relevant Measures of the General REPS programme applicable to such land;
- apply Good Farming Practice on all of the holding;
- submit documentation and maintain records as specified.

14 Supplementary Measures

14.1 Approved Supplementary Measures may be undertaken as appropriate.

14.2 Corncrake Habitats

A farmer in the Scheme who maintains/manages lands identified in his/her plan as suitable breeding sites for the corncrake shall be eligible for payments as set out in ANNEX 4.

14.3 Traditional Irish Orchards

A farmer in the Scheme who creates and maintains an orchard with specific apple varieties traditional to Ireland, provided for in his plan, shall be eligible for payments as set out in ANNEX 4. The qualifying area for payment under the general REPS Programme shall be reduced by the area under this measure.

14.4 Conservation of Animal Genetic Resources

A farmer in the Scheme who rears an animal(s) from a breed specified in Article 14 of Commission Regulations Nos. 445/2002 and 817/2004, and provided for in his plan, shall be eligible for payment as set out in ANNEX 4.

14.5 Riparian Setaside

A farmer in the Scheme who maintains a riparian zone, identified in his plan, shall receive payments as set out in ANNEX 4. The qualifying area for payment under the general REPS Programme shall be reduced by the area under this measure.

14.6 LINNET Habitat (Land Invested In Nature, Natural Eco Tillage)

A farmer in the Scheme who maintains small-scale cereal plots with the objective of providing a food source and a mosaic of habitats, in order to benefit bird species, identified in his plan, shall receive payments as set out in ANNEX 4. The qualifying area for payment under the general REPS Programme shall be reduced by the area under this measure.

14.7 Organic Farming

14.7.1 Participants in this supplementary measure must be engaged in the production of crops and animals intended for human consumption and may be required to demonstrate that these products are marketed as organic.

14.7.2 Organic farmers shall comply with the conditions of Council Regulation (EEC) No. 2092/91, as amended and with Statutory Instrument No. 112 of 2004.

14.7.3 Where livestock production is undertaken payment shall be computed based on a minimum stocking level of 0.5 livestock units per hectare of the forage area (areas declared as grassland under the Organic Supplementary Measure) qualifying for payment.

14.7.4 Farmers who have reverted from organic to conventional farming shall be eligible for payments on re-applying for this supplementary measure at the rate for full organic status only.

14.7.5 Where, during the course of a five-year commitment a participant elects to convert his/her farm to organic production methods, such change of the farming system shall constitute grounds for the transformation of the existing commitment into a new five-year commitment as provided for under Articles 21 of Commission Regulations 445/2002 and 817/2004.

14.7.6 Withdrawal or non renewal of an organic licence within the term of the REPS commitment shall mean termination from the Supplementary Measure and full recoupment of all aid paid under the Supplementary Measure including interest payable under SI 463/2003.

14.7.7 Where an overpayment occurs under this Supplementary Measure due to overdeclaration of the eligible area for payment by the participant in any year(s), the Department will recoup the amount of the overpayment, including interest payable under SI 463/2003. Similarly where a participant continues to farm organically (i.e. licensed by organic inspection body) but does not retain the land parcel(s) under

organic production methods for the duration of the REPS commitment, the Department will recoup the amount paid in respect of these land parcel(s), including interest payable under SI 463/2003.

- 14.7.8 Any other non-compliance with this measure will result in a 20% penalty on the amount due under the organic farming supplementary measure.
- 14.7.9 Farmers may include a part of their holding in this measure.
- 14.7.10 Commonage land or grazing rights shall not be eligible for payment under this measure.

14.8 **Combining Supplementary Measures**

- 14.8.1 Farmers may undertake as many Supplementary Measures as they wish; however they will be paid only for any one Supplementary Measure, or paid only on two supplementary measures where one is undertaken from Traditional Orchards, LINNET Habitats or Riparian Zones and the other one is undertaken from Conservation of Animal Genetic Resources (Rare Breeds), Organic Farming or Corncrake Habitats.
- 14.8.2 Participants in the Organic Supplementary Measure may also receive payment under Measure A. The maximum area for payment of 55 hectares under this measure shall be reduced by any target area receiving Measure A payment. However, participants may not accumulate payments under the Organic Supplementary Measure and Measure A on the same land parcels.
- 14.8.3 It is a fundamental requirement that participants elect for supplementary measures from the commencement of the five-year REPS Plan as a condition of eligibility for payment.

15 **Amendments to Plans, and REPS Forms A, G, H, and W.**

15.1 **Amended Plans**

Planners shall prepare amended plans in accordance with the Scheme Terms and Conditions and Specification for REPS Planners for the time being in force. Appropriate amendments shall be made to existing plans in the following situations: –

- where the planned stocking density is increased by 10% or more or decreased by 20% or more,
- where the planned stocking levels increase by more than 10%. This requirement is only applicable where there is an increase of more than 2 livestock units, whichever is the greater,
- where the plan is found to be deficient,
- where additional land is acquired by inheritance purchase or lease (see Paragraph 16.1),
- where the contract area is reduced by more than 2 hectares,
- where there is a change in the main farming activity of the holding.

15.2 **REPS Forms A, G, H, and W.**

Participant will be required to submit completed Forms REPS A, REPS G, REPS H and/or REPS W as appropriate, within 6 weeks of the commencement of the following events: –

- where the contract area is reduced by less than 2 Hectares as per Form REPS A,
- grazing of livestock owned by others on Applicant's farm or grazing by livestock owned by Applicant on another REPS farm as per Form REPS G,

- housing and feeding of livestock owned by others on Applicant's farm and housing and feeding of livestock owned by Applicant on another REPS farm, as per Form REPS H. Both Applicant and Planner must sign this form.
- where animal manure is imported or exported as per Form REPS W.

16 Changes in Area Farmed

16.1 Additional land acquired

16.1.1 Where the area is increased by more than 2 hectares and payment is required, participants must: –

- notify the Department within 6 weeks,
- submit new 5-year plan during the 6 weeks period before the next anniversary date.

16.1.2 Where the area is increased by more than 2 hectares and payment is not required, participants must: –

- notify the Department within 6 weeks,
- submit an amended plan with the accompanying IC within 2 months of the next anniversary date.

16.1.3 When the area is increased by less than 2 hectares, payment will be made on the additional land for the remainder of the REPS commitment provided that the participant(s): –

- notify the Department within 6 weeks,
- submit an amended plan with the accompanying IC within 2 months of the next anniversary date.

16.2 Reduction in Area

16.2.1 Where the eligible area farmed is decreased, the annual payment will be adjusted if and as appropriate at the commencement of the next full year. Aid must be reimbursed at the rates provided for in paragraph 16.5.

16.2.2 Where a participant fails to complete his/her 5-year term in REPS, aid already paid must be reimbursed.

16.2.3 The re-imburement of aid will not be required in the following cases:-

- (i) where the land disposed of is included in another REPS plan of an existing REPS participant and continues to be farmed in compliance with the Scheme.
- (ii) where a participant has ceased farming and has completed three years of the plan (The participant must however complete the last year for which payment was received otherwise a proportionate re-imburement will apply to final payment.)
- (iii) where the existing plan is continued for the remainder of the 5 year period by the person taking over the holding from the previous participant and the person taking over submits a form REPS 1 within 6 weeks.
- (iv) in respect of lands afforested under Council Regulation (EC) No. 1257/1999 as amended by Council Regulation (EC) No. 1783/2003. (Where land is afforested during a REPS recording year a proportionate reimbursement will apply for the part of the REPS year that has not been completed).
- (v) where the area farmed is reduced because of land acquired under a compulsory purchase order (CPO), re-imburement will not be required in respect of the lands that are the subject of the CPO. In addition re-imburement will not be required in respect of lands sold or transferred arising from a requirement of a Court Order in:

- a. divorce or judicial separation proceedings or
 - b. a settlement or separation agreement.
- 16.3.1 Where lands claimed for payment are found to be ineligible, the annual payment will be adjusted if and as appropriate at the commencement of the next full year. Aid already paid shall be reimbursed at the rates provided for in 16.5 below.
- 16.4 In all cases where the area of the farm is reduced by the disposal of land, or land is found to be ineligible, annual payment for the remaining years of the REPS plan shall be recalculated on the remaining eligible land.
- 16.5 If re-imbursement is required it shall be at the rate of €175 per hectare of non-target land disposed of or found to be ineligible up to a maximum of 40 ha. On target land the rate shall be €242 per hectare up to a maximum of 40 ha. If the area disposed of is in excess of 40 ha reimbursement in excess of 40 ha will be at the relevant payment rate. Interest shall apply at the rate provided for under SI 463/2003.

17 Monitoring and Evaluation

- 17.1 Monitoring and evaluation of the REPS programme shall be carried out in line with the provisions of Commission Regulations (EC) Nos. 445/2002 and 817/2004.

18 Plan and Compliance Checks

- 18.1 All applications will be checked and verified before payments are made under the Scheme. REPS applications will be crosschecked with records held under the Department's Integrated Administration and Control System (IACS). Pre-payment checks and on-farm inspections will be carried out on a proportion of applications, to ensure that agri-environmental plans have been prepared by the REPS planner in accordance with the Specification for REPS Planners and the Scheme Terms and Conditions.
- 18.2 Inspections and checks will be carried out at farm level to ensure compliance with the requirements of the Scheme. Participants shall also be required to certify that farming practices during the previous REPS year were in accordance with the REPS plan and the REPS Farmer's Handbook and that he/she has kept farm records in accordance with the requirements of Measure 11.
- 18.3 To enable the Department to verify the accuracy of information submitted by applicants, applications will be subject to administrative checks, on-farm inspections and any other controls deemed necessary. Applicants shall facilitate such checks and inspections as the Department deems necessary.

19 Payments Procedures – General REPS Programme

- 19.1 Initial payment shall be made following the approval of a valid application. In subsequent years annual payments shall be made, subject to the participant making an application and providing evidence each year of compliance with the agri-environmental plan, the REPS Farmer's Handbook and the Scheme Terms and Conditions. (Compliance during the third year of the contract shall also be certified by the approved planning agency where required.) It is the farmer's responsibility to ensure that applications for second and subsequent years' payments are submitted within the specified time limit.
- 19.2 For audit and control purposes, applicants/participants may be selected at any time for farm inspection/plan checks.
- 19.3 Payments for supplementary measures are set out in ANNEX 4. These payments are made retrospectively on an annual basis.

20 Penalties

- 20.1 Failure to comply with the agri-environmental plan and/or REPS Farmer's Handbook will result in an appropriate penalty/sanction.
- 20.1 Monetary penalties, which shall apply to certain specific breaches of the Scheme, are set out in ANNEX 1 but other breaches of the scheme not specified in ANNEX 1 may also incur a penalty.
- 20.3 Monetary penalties shall include interest payable at the rate provided for under SI 463/2003. Interest shall be calculated for the period elapsing between the notification of the repayment obligation to the farmer and either repayment or deduction. Penalty amounts may be deducted from future payments due to the applicant under the REP Scheme or from payments due under other EU-financed schemes. Where monetary penalties are not paid or recovered within the period requested, the Department may take whatever action is deemed necessary for their recovery.
- 20.4 Where the cumulative total of penalties incurred by a participant in any one year of the plan exceeds 200%, that participant shall have his/her participation terminated and a refund of all monies previously paid will be required.
- 20.5 Serious breaches of the agri-environmental plan and/or the REPS Farmer's Handbook may lead to the termination of participation and/or exclusion from the Scheme for a period commensurate with the seriousness of the breach, and the refund of monies already paid.

21 Good Farming Practice

- 21.1 Good farming practice is mandatory across all structural schemes. Conditions for Good Farming Practice are published separately by the Department. Penalties imposed under REPS are separate and in addition to any penalty that may be imposed under Good Farming Practice.

22 Appeals

- 22.1 In cases where non-compliance penalties are applied, participants will be given ten working days after formal notification by the Department's local office in which to appeal in writing to the local office and give reasons why any penalty imposed should not be applied. The participant will be informed of the outcome of the appeal. This is without prejudice to a participant's rights under the Agriculture Appeals Act, 2001.

23 Education and Training

- 23.1 It shall be mandatory for participants to attend a suitable training course before reaching the end of their second year in the Scheme. Failure to attend within the period specified will result in third and subsequent years' payment being withheld until such time as satisfactory evidence is provided that a training course has been completed by the beneficiary.
- 23.2 Participants who have already completed a 20-hour course under REPS 2000 shall be exempt from the requirement to complete another 20-hour course, but may be required to attend a supplementary course as specified by the Minister.
- 23.3 The training course must be completed by the beneficiary of the Scheme. In the case of joint applications either applicant may attend the course, but he or she must attend the whole course.
- 23.4 Training courses shall be of a minimum of 20 hours tuition and farmers participating in the Scheme shall be paid €124 on satisfactory completion of the course. Only one payment shall be made in respect of each participating farm.
- 23.5 The course(s) shall be organised by approved planners/planning agencies in accordance with conditions set down by the Minister or an officer authorised on the

Minister's behalf. Courses shall include an on-farm visit for practical demonstration purposes.

- 23.6 The Department shall maintain a list of approved demonstration farms for use in connection with REPS training courses. Owners of demonstration farms approved by the Department shall be paid a gratuity not exceeding €3,000 per farm per annum.

24 Death of participant

- 24.1 Where a participant dies within the period of the plan, *force majeure* shall be applied terminating the agreement and no reimbursement of aid shall be sought in respect of the current or previous contract years.

25 Right of Entry

- 25.1 The Minister reserves the right to carry out inspections at reasonable times of any land, premises, plant, equipment, livestock and records of applicants/participants in this Scheme. Inspections may be carried out within 3 months following the participant's completion of the 5-year term in REPS.

26 Approval of an Application

- 26.1 The approval of an application shall at all times be subject to the condition that, in the opinion of the Department, the application is justified.

27 Responsibility of Applicant

- 27.1 It shall be the responsibility of the applicant to familiarise him/herself with his/her agri-environmental plan, the REPS Farmer's Handbook and these Scheme Terms and Conditions, and with the consequences for breaches of the Scheme.
- 27.2 The approval or payment of aid under the Scheme does not imply the acceptance by the Minister of any responsibility as regards the obligations undertaken by the participant in this Scheme.

28 Failure to abide by the terms and conditions of the Scheme

- 28.1 (a) Where, for the purposes of obtaining payment under this Scheme, the applicant knowingly makes a false or misleading statement or withholds essential information, his/her participation in the Scheme may be terminated and all or part of the aid paid shall be reimbursed. The Minister reserves the right to offset such amounts against other monies payable by the Department under EU-financed or co-financed Schemes to the applicant in such cases. The Minister also reserves the right to exclude such a person from further participation in the Scheme for such period as he shall determine, but in any event not exceeding a period of 5 years.
- (b) Where a beneficiary fails to abide by the terms and conditions of the Scheme or if there is any material change in the circumstances of the applicant which would be in conflict with the letter or the spirit of the scheme, his/her participation in the Scheme may be terminated and all or part of the aid paid shall be reimbursed. The Minister also reserves the right to offset such amounts against other monies payable by the Department to him/her.
- (c) The Minister reserves the right to review and, if necessary, to terminate participation in the Scheme and to seek re-imburement of aid paid where no improvement to the environment is evident.
- (d) The obtaining of aid or the attempt to obtain aid under the Scheme by fraudulent means by the applicant or others acting alone or together may render such persons liable to prosecution.

28.2 (a) Where a participant(s) in the Scheme is convicted on indictment of a pollution related offence or an offence relating to the Animal Remedies Act 1993, his/her participation in the Scheme will be terminated and all or part of the aid paid shall be reimbursed and he/she shall be excluded from the Scheme for a period of at least 12 months from the date of said termination. Where any participant(s) are convicted of a summary offence then such participant(s) shall be liable for a 100% penalty of the eligible payment for the recording year in which the breach was committed.

(b) Where any participant(s) in the Scheme is convicted of an indictable offence under the Diseases of Animals Acts 1966–1996, (including any Statutory Instruments and/or Regulations made or deemed to be made under the Acts) or the Animal Welfare Acts, his/her participation in the Scheme may be terminated and all or part of the aid paid shall be reimbursed. Any participant(s) convicted of a summary offence may be liable to a penalty.

29 Review of Financial Aids

29.1 The Minister reserves the right to vary, where occasion so demands, the amount of financial aid wherever specified in the Scheme subject at all times to the provisions of any relevant European Union legislation.

30 Procedures

30.1 The Minister reserves the right to alter from time to time the procedures to be followed in the operation of this Scheme.

31 Conditions of Approval

31.1 Every approval under this Scheme shall be subject to conditions laid down by the Minister, which must be complied with in full by the applicant.

32 Tax Clearance Requirement

32.2 Payment of financial aid as provided for in this Scheme may be subject to the condition that a tax clearance certificate from the Revenue Commissioners be furnished before a payment can be issued.

33 Information and Data Protection

33.1 The Minister reserves the right to make public information regarding the areas covered by this Scheme including the number of participants, farms, historical and archaeological sites, hectares covered etc. and other information required for environmental purposes and from 1st January 2005 to make information available to other Government Departments and/or agencies involved with the implementation of EU cross-compliance requirements under the Single Payment Scheme.

33.2 The Minister may from time to time disclose information relating to participants in the Scheme to other Government Departments and/or agencies for the purpose of implementing national and European legislation.

34 Further Conditions

34.1 The Minister may at any time lay down further conditions under this Scheme and may set the minimum level of farming acceptable as qualification for the Scheme.

35 Force Majeure

35.1 Where a beneficiary is unable to continue complying with the commitments given for reasons beyond his/her control, a case may be made under *force majeure* to terminate the plan. In such cases the applicant or his or her representative should inform the Department of Agriculture and Food in writing with relevant evidence, within ten

working days of being able to do so. Without prejudice to the actual circumstances to be taken into consideration in individual cases, the following categories of *force majeure* may be recognised:

- (a) death of the participant,
- (b) long term professional incapacity of the participant,
- (c) expropriation of a large part of the holding if such expropriation could not have been anticipated on joining the Scheme,
- (d) a natural disaster affecting the holdings agricultural land,
- (e) the accidental destruction of livestock buildings on the farm,
- (f) an outbreak of disease affecting all or part of the livestock on the farm

36 Transitional Rule

Participants with contracts under Regulation (EEC) No. 1257/99 may transform their commitment into a new five-year agreement provided that :

- (a) such a transfer is definitely beneficial to the environment, and
- (b) the existing commitment is significantly enhanced.

37 Interpretation

- 37.1 The Department shall expand upon, explain, interpret or define the meaning of any aspect of the Terms or Conditions of the Scheme, the Farmer's Handbook and/or the Specification for REPS Planners.

ANNEX 1

Penalty Schedule for REPS

ADMINISTRATIVE PENALTIES

Late lodgement of application

Except in cases of *force majeure*, a penalty of 1% per working day will apply to applications for second and subsequent year payments lodged after the deadline for receipt of such application. If the delay amounts to more than 25 working days, the application shall be deemed inadmissible and no aid shall be granted for the recording year to which the application relates.

REPS forms A, G, H, W not lodged within specified periods: future payments will be withheld until appropriate documentation is submitted.

Where an amended plan is not submitted within 2 months of the anniversary date, a warning will be issued. If the amended plan is not received within 6 weeks of the warning, a penalty of 5% shall apply.

COMPLIANCE PENALTIES

MEASURE 1

Recommended quantity of lime not applied	10%
Planned silage storage facilities/remedial work not carried out	20%
Planned animal housing/waste storage facilities/remedial work not carried out	20%
Spreading of Organic manures and/or chemical nitrogen fertilisers during prohibited periods	10%
Organic manures/effluent discharging into watercourses/drains	100%
Organic N exceeds planned limits: a single penalty will apply as follows:—	
• Exceeded Planned Limits by 10 % or more	10%
• Exceeded Scheme Limits	50%

(Where more than one limit is exceeded, the higher penalty will apply.)

Chemical P or Chemical N exceed planned limits

• By 0–10 %	10%
• By greater than 10 % or Scheme limit exceeded	50%

(Penalties will be cumulative where both chemical P and N exceed planned limits.)

MEASURE 2

Stock not out-wintered as set out in Plan	10% ^b
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MEASURE 3

Fences not located the specified distance from wells/watercourses/ waterbodies marked blue on Map	5%
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Wells unfenced and/or bovines not excluded from watercourses/ waterbodies marked blue on Map	15%
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MEASURE 4

(also applies to target areas on your holding)

Habitats identified in plan not retained	100%
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Conservation/management practices not carried out on habitats as specified in Plan	10%
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MEASURE 5

Permanent field boundaries on map not retained	100%
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Farm boundaries not stockproofed	10%
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Hedgerows/stonewalls not maintained as specified in the plan	10%
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MEASURE 6

Pesticides or chemical/organic fertilisers applied within proscribed distances of hedgerows/walls/wells/watercourses/waterbodies/public water supplies/dwelling houses/public buildings/amenity areas/school grounds	10%
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MEASURE 7

Monuments/features removed, damaged or not retained in an undisturbed state	100%
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Conservation/management practices pertaining to monuments/features in plan not adhered to	10%
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MEASURE 8

Undertakings in respect of farm and farmyard not carried out as planned	10%
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MEASURE 9

Tillage field margin widths not in conformity with REPS requirements	10%
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MEASURE 11

Records not kept as prescribed	50%
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MEASURE A

Non-compliance with stocking limits as set out on plan

• Limits exceeded by 10–20%	20% ^c
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• Limits exceeded by greater than 20% difference	50% ^c
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SUPPLEMENTARY MEASURES

Non-compliance with Supplementary Measures 1-5	50% ^a
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SUPPLEMENTARY MEASURE 6

Non renewal or withdrawal of organic licence	Termination ^d
Any other non-compliance with SM6	20%

BIODIVERSITY UNDERTAKINGS (ANNEX 6)

Non-compliance/partial non-compliance with each of the specific requirements under these Measures	5%
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Notes on penalties

^a 50% for first infringement during contract period. 100% for second or subsequent infringements. Penalty applies only to Supplementary Measure payment for the year in question — except for Riparian Zone and Organic Farming Measures where 100% penalty will mean termination from the Measure and full recoupment.

^b A tolerance of 20% is permitted. Beyond this 10% applies.

^c Applies to all lands attracting Measure A payment rate only.

^d Termination from this measure and full recoupment of aid already received under SM6. Over declaration of eligible area for organic payment will result in a reimbursement of aid paid on the ineligible area.

A penalty of 100% other than on Supplementary Measures means that where one or more such penalties apply, there will be no payment for a year, but the participant may continue in REPS. In the case of a repeated infringement during the period of the REPS agreement, the appropriate penalty will be doubled. Any further repetition of the same infringement will result in termination and recoupment of all monies paid.

The penalties set out in the Schedule are the minimum sanctions that will be applied. In all cases the Department reserves the right to review files where penalties are imposed to establish whether or not a major breach of the scheme conditions has occurred which may lead to the termination of the contract and reimbursement of all aid.

ANNEX 2**ARTIFICIAL CREATION OF HOLDINGS**

- 1 An application shall not be accepted if, in the opinion of the Minister or his officials, the holding concerned has been artificially created for the purpose of drawing down or maximising benefits under the Scheme. New farm units created by dividing or enlarging existing holdings will be examined. This is to determine whether they have been artificially created with a view to obtaining an advantage contrary to the objectives of the Scheme.
- 2 In determining eligibility applications will be examined by reference to
 - the creation/enlargement of the holding and/or
 - the management of the holding as a separate unit.
- 3 The factors that may be considered when examining the creation/enlargement of a holding include: —
 - the planned benefit to the environment
 - the income foregone and expenditure by reference to the Plan
 - the farming activity
 - the economic viability
 - the planned undertakings
 - Area Aid declarations
 - status of lands – owned, leased etc.
- 4 The factors that may be considered when examining the management of the holding as a separate unit include: —
 - separate herd numbers
 - herds maintained separately
 - herds handled separately in separate handling facilities
 - separate Area Aid declarations
 - separate REPS applications, where applicable
 - stock-proofed boundaries
 - independent access to holdings
 - separate farm accounts/financial records/other documentary evidence
 - any other relevant issue.
- 5 In examining farm units created by dividing or enlarging existing holdings, the Department may require evidence of title.

ANNEX 3

Issues pertaining to Land Eligibility and Declaration of Land

It is the responsibility of the applicant(s) to declare all lands farmed/owned/controlled (including lands outside the State) and the manner in which these are held. This responsibility is discharged by advising the planner/planning agency regarding the details of all lands owned/farmed either individually or in partnership with others including:

1. Owned land
2. Land Beneficially owned or occupied (Land without proper title)
3. Letter of Consent Land
4. Leased Land
- 5a. Documented commonage shares /grazing rights
- 5b. Undocumented commonage shares/grazing rights
6. Conacre lettings.

The Department reserves the right to check ownership/leasehold documents and any other documents where doubt exists/occurs regarding eligibility.

In the case of 4, 5(a) and 5(b) above (commonage/grazing rights or leased land) the planner must examine the applicant's legal title to establish the eligibility of the lands. The applicant must have such legal documentation available for inspection.

The following is acceptable as evidence of Title: —

Leased Land: Where the land is held under a lease which gives the applicant absolute possession for at least 5 years from the commencement date of the agri-environmental plan under the scheme. Original or certified copy of the lease/s will be required. Any amendments/changes to the lease must be by way of addendum.

Documented Commonage shares/Grazing rights are eligible for payment² provided documentary evidence of entitlement to such rights is provided viz: –

- Registered on Land Registry Folio
- Land Commission Vesting Order
- Certified copy relevant estate papers from Land Commission records
- Grant by the freehold legal owner
- Grazing Trust Deed
- Grant or Deed by original Estate Landlord

Together with —

- details as submitted with Area Aid application.
- in the case of grazing rights a sworn affidavit setting out the hectareage/acreage of grazing rights entitlement together with a signed map (to include a list of names of the other rights holders) outlining the boundaries of same.

Undocumented Grazing rights/Commonage shares: In the case of grazing rights/commonage shares for which no documentary evidence on title is available the following shall be acceptable

- A joint sworn affidavit signed by all shareholders/grazing right holders setting out:
 - The total number of commonage shares/grazing rights
 - Each shareholders share entitlement in the commonage;

² Additional eligibility criteria for commonage/grazing rights are set out in ANNEX 5

- Each grazing rights holders allocation of rights and the extent to which such rights may be exercised;
 - An undertaking that if at any future date a person, other than the deponents or their successors, establishes a valid claim to a share in the commonage/grazing rights such person would be accommodated by a proportionate reduction in the existing shares/grazing rights as set out in the affidavit.
 - The affidavit shall include a recital stating that the affidavit will not be used for purposes other than those for which it was prepared.
- Any such affidavit shall be accompanied by: –
 - A map of the commonage showing the total area with the external boundaries clearly marked in red or in the case of grazing rights the entire area over which rights are exercised;
 - Documentation showing that the deponents have made every reasonable effort to establish a definitive list of shareholders/grazing rights holders relative to the entire area to which the affidavit refers;

— together with details as submitted with Area Aid application.

Land eligible for payment

Land eligible for payment subject to Paragraph 7.2 includes all land parcels which are under the exclusive control of the applicant and which will continue to be farmed by him/her for the five years of the REPS agreement. These parcels must be declared by him/her on the Area Aid database and continue to be declared by him/her for the five years of the REPS agreement. These lands are included at 1, 2, 3, 4, 5a, 5b above.

Land Owned by Applicant but Farmed by Others

It is the responsibility of the applicant to declare the extent of any lands leased or let to others. Land which at the time of approval is leased out to others and is returned to the applicant's holding during the course of the undertakings may constitute grounds for the transformation of the undertakings into a new 5 year contract. This provision does not apply to land rented out on short-term lettings, conacre or agistments.

Lands held under non-qualifying Leases

Where lands are held under non-qualifying leases (leases with less than 5 years to run at the time approval) or conacre including agistment, this land must be included annually by the applicant in the Integrated Administration and Control System (IACS).

Turbary

Where turbary rights exist on privately owned lands, commonage lands or on lands to which grazing rights apply, and these are not being used, then the applicant may apply for REPS on his/her share of such lands without excluding the turbary area. In such cases, a sworn affidavit must be available confirming that the turbary rights have not been exercised on these lands in the last five years and that if such rights are exercised within the five years duration of the plan the appropriate amount of monies received in payment will be refunded. The affidavit must contain an indemnity clause in favour of the Minister. Where turbary rights are being exercised, the planner shall exclude these areas as appropriate. In the case of commonages/grazing rights, the planner shall refer to the commonage framework plan as appropriate.

ANNEX 4**Payment Rates (per annum)**

Supplementary Measures	
<i>Corncrake Habitats Measure</i>	<i>€100 /ha</i>
<i>Traditional Irish Orchards Measure</i>	<i>€150 per orchard established</i>
<i>Conservation of Animal Genetic Resources Measure</i>	<i>€200 per livestock unit of the breed registered with the breed society.</i>
<i>Riparian Zones Measure</i>	<i>€724.50 /ha up to a maximum of 2.5 ha</i>
<i>LINNET Habitats Measure</i>	<i>First hectare €700</i> <i>From 1 to 2.5 ha €400 per hectare</i>

ANNEX 5

Additional Eligibility Conditions for Commonage Shares/Grazing Rights

The following categories of commonage shares and grazing rights, farmed by an eligible applicant, may be deemed eligible for payment:

- a) Commonage shares/grazing rights owned and declared in area aid in either 1997 or 1998 or 1999 or 2000 or 2001 by a farmer or his/her successor in title who applied for livestock premia/headage or held quota rights during those years are eligible for payment. In addition eligibility may be considered where there is evidence that the commonage shares / grazing rights were farmed by the farmer in 1997 or 1998 or 1999 or 2000 or 2001 *i.e.* tags, records, receipts etc.
- b) Commonage shares or grazing rights declared in area aid in 1997 or 1998 or 1999 or 2000 or 2001, which at the time of such declaration were held under a long term lease (minimum of 5 years) by a farmer, who subsequently acquired ownership of the shares/rights declared and either held quota rights or applied for livestock premia/headage in those years may be deemed eligible.
- c) Commonage shares / grazing rights which were farmed for five consecutive years under a rental agreement and declared in area aid by the farmer in either 1997 or 1998 or 1999 or 2000 or 2001 who either held quota rights or applied for livestock premia/headage in those years may be deemed eligible on acquisition of ownership by the farmer concerned.
- d) Owned commonage shares / grazing rights which were eligible area in an approved agri-environmental plan in the programming period 1994 to 1999 may be deemed eligible.
- e) Commonage shares / grazing rights, which qualify under any of the above conditions and are leased by an eligible transferee from an approved participant in the Early Retirement Scheme (ERS), are eligible for payment under REPS where the transferor's total commonage shares / grazing rights and the total associated ewe quota, are transferred to a single transferee. The commonage shares / grazing rights and ewe equivalents shall be included in de-stocking calculations.
- f) Commonage shares / grazing rights which are owned by a family member and are farmed as part of a holding shall have the same status as owned commonage shares / grazing rights (*i.e.* as above) where the farmer has the written permission of the land owner in question to include the lands in REPS *i.e.* a letter of consent.

The eligibility of commonage shares and grazing rights is subject to all other Scheme terms and conditions.

Eligible Commonage Area

In addition to above the eligible commonage area for payment and for inclusion in the de-stocking calculation is the IACS area(s) less the appropriate ineligible area(s) as set out in the relevant commonage framework plan(s).

ANNEX 6**Biodiversity Undertakings**

Category 1 Options	Category 2 Options
4A Creation of a New Habitat	2A Traditional Hay Meadows
5A. Hedgerow Rejuvenation	2B. Species Rich Grassland
5B. New hedgerow establishment	3A Increased Watercourse margin
5C Additional Stonewall Maintenance	3B Exclude all Bovine Access to Watercourses
9A Green Cover Establishment	4B Broadleaved Tree Planting.
9B Environmental Management of Set-aside	4C Nature Corridors
9C Increased Arable Margins	7A Increase in Archaeological Buffer Zones
	7B Management of Publicly Accessible Archaeological Sites
	8A Provide Landscaping around the Farmyard