



National Development Plan 2007 - 2013



EUROPEAN UNION  
STRUCTURAL FUNDS



THE DEPARTMENT OF  
AGRICULTURE & FOOD  
AN ROINN TALMHAÍOCHTA AGUS BIA

**Terms and Conditions of the  
RURAL ENVIRONMENT PROTECTION SCHEME (REPS)**

**And**

**NATURA 2000 SCHEME**

**Introduced by**

**The**

**MINISTER FOR AGRICULTURE AND FOOD**

**in implementation of**

**Council Regulation (EC) No. 1698/2005**

**DATE: 11 August 2007**

Measures included in the CAP Rural Development Plan 2007-2013 co-funded under the National Development Plan and the European Agricultural Fund for Rural Development (EAFRD) of the European Union



## **1. General Outline and Legal Basis**

- 1.1. These are the administrative provisions for the implementation of the Rural Environment Protection Scheme (REPS) and Natura 2000 Scheme drawn up in accordance with Council Regulations (EC) No. 1698/2005.
- 1.2. This document constitutes the framework for the application of the detailed rules contained in Commission Regulations (EC) Nos. 1974/2006 and 1975/2006.

## **2. General Provisions**

- 2.1. The Schemes shall be administered by the Department and shall operate throughout the State.
- 2.2. The Schemes are jointly funded by the European Union and the National Exchequer.
- 2.3. The Schemes shall come into operation on 11 August 2007.
- 2.4. Participants in REPS and Natura 2000 must carry out their farming activities under an agri-environmental plan prepared by an approved planner in accordance with the Department's Specifications for REPS Planners.
- 2.5. Participation in REPS is a condition of eligibility for payment under the Natura 2000 Measure
- 2.6. Where all or part of the holding is designated under Directives 79/409/EEC, 92/43/EEC and 2000/60/EC (Birds, Habitats or Water Framework Directives) participation in the separate Natura 2000 measure shall be a condition of joining REPS.
- 2.7. Farmers participating in The Organic Farming Scheme may also participate in and draw down REPS payment.
- 2.8. Undertakings in all schemes shall be for a minimum period of five years.
- 2.9. Participation in REPS is voluntary.

## **3. Definitions**

For the purpose of these Schemes: -

**“ANNUAL PAYMENT CLAIM”** shall mean a claim for Agri-environment or Natura payment submitted under the Single Payment Scheme Application (Article 8, Commission Regulations (EC) No 1975/2006).

**“ANNUAL DECLARATION”** shall mean a duly completed REPS Form 1C.

**“APPLICATION”** shall mean an application for support under a five-year contract accompanied by an agri-environmental plan and related documents, prepared by an approved planner in accordance with the terms and conditions set out herein and with the Specification for REPS Planners; and such other documents as may from time to time be prescribed.

**“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. For REPS purposes it shall also include lands on which persons have grazing entitlements;

**“COMMONAGE FRAMEWORK PLANS” (CFP)** shall mean management plans prepared for each commonage/grazing rights area as jointly approved by the Department and the Department of Environment, Heritage and Local Government.

**“CONTRACT AREA”** shall mean all lands farmed by the applicant which meet the eligibility conditions as set out in this document.

**“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 fodder and tillage crops and the growing of horticultural and energy crops.

**“LEASE”** shall mean a term of years absolute in possession for at least 5 years from the commencement date of the contract.

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

**“NATURA 2000”** shall mean lands designated under Directives 79/409/EEC, 92/43/EEC and 2000/60/EC (Birds, Habitats or Water Framework Directives).

**“NHA”** shall mean lands formally designated as National Heritage Areas.

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

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

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

#### 4. **Objectives of Schemes:**

- To promote
  - a) ways of using agricultural land which are compatible with the protection and improvement of the environment, biodiversity, the landscape and its features, climate change, natural resources, water quality, the soil and genetic diversity
  - b) environmentally-favourable farming systems
  - c) the conservation of high nature-value farmed environments which are under threat
  - d) the upkeep of historical features on agricultural land
  - e) the use of environmental planning in farming practice
- To protect against land abandonment

- To sustain the social fabric in rural communities
- To contribute to positive environmental management of farmed NATURA 2000 sites

## **5. Conditions for the Grant of Aid**

**5.1.** Farmers who make a valid application and carry out their farming activities in accordance with An agri-environmental farm plan prepared by an approved planner respecting all relevant EU requirements and national legislation for the time being in force.

**5.2.** The conditions set out in this document;

**5.3.** Statutory Management Requirements (SMR's) and

**5.4.** Good Agricultural and Environmental Conditions (GAEC) of the Single Payment Scheme on all of the holding.

shall be entitled to draw down annual payment for a five year period.

## **6. Eligibility**

6.1 To be eligible to participate a farmer shall:

- Be farming at least 3 hectares owned or leased land (or lands farmed subject to paragraph 6.2 and 6.3 below) excluding commonage and grazing rights (unless with the prior approval of the Department), or 1 hectare in the case of small scale fruit or vegetable producers (excluding areas under associated tourism and craft activities),
- Have a minimum stocking rate of 0.15 LU per forage hectare of animals owned by applicant, subject to paragraph 7, where the enterprise is dairy farming and/or livestock production. A lower stocking density may be acceptable where it is certified by an environmentalist that a lower stocking density is more appropriate for environmental sustainability.
- Be aged eighteen years or over on date of application,
- Undertake to implement, for a minimum period of 5 years, the measures outlined in paragraph 11
- Include all of the land farmed (owned, leased, rented or used) by him/her in the agri-environmental farm plan.
- Have all lands farmed declared on the Integrated Administration and Control System (IACS) and include all IACS / Land Parcel Identification System (LPIS) numbers and areas in the agri-environmental plan.
- Include his/her Personal Public Service Number (PPSN) on the application form.
- Include his/her herd/flock/cereal/SPS number on the application form

- Have a farm unit which has not, in the opinion of the Minister or his/her officials, been created for the purpose of claiming or increasing payments under the Schemes (see ANNEX 2 for further details)
- 6.2 An applicant who is not the owner/leaseholder/beneficial occupier of land involved shall only be admitted to the Scheme if she/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 (Letter of Consent) must include all of the lands owned by the landowner(s) in question and must be submitted with the initial REPS application for support. The land must be declared on IACS in the REPS applicants name.
- 6.3 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 she/he is managing and farming the land. The participant must be in undisputed occupation and possession of the land and be declared in the applicants name on IACS.
- 6.4 All of the land farmed by an eligible applicant that meets the conditions set out in Annex 3 and subject to paragraph 6.5 and 6.6 below is eligible for payment with the exception of the following:
- 6.5 On land excluding commonage:
- 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 single payment 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, 2328/91, 1257/1999, 1783/2003, 1698/2005, state aided forestry and commercial forestry;
  - Land in public ownership
  - Land held in fee simple, subject to turbary rights other than where these rights are held by the Department (Lands Division) or held by the National Parks and Wildlife Service 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
- 6.6 **On commonage land:**  
Ineligible areas as set out in the relevant CFP pro-rata with the applicants share.

6.7 **Additional eligibility conditions for Commonage Shares/Grazing Rights**  
Commonage/grazing rights areas recorded in the name of the applicant on the Integrated Administration and Control System (IACS) in accordance with article 8(2)(a) of Commission Regulation 796/2004 shall be considered for eligibility provided that the area on which payment is sought has been declared by the REPS applicant on IACS in the five years preceding the date of the REPS application.

6.8 **The requirement for the five year declaration on IACS may be dispensed with**

**Where:**

- An existing holding (including all commonage shares/grazing rights) is transferred by way of inheritance the holding must have been declared on IACS in the five years preceding the date of the REPS application by the applicant and/or the previous owner.
- A young farmer is approved for setting up aid under article 22 of Regulation 1698/2005 the five-year IACS declaration requirement will not apply.
- A holding is transferred under the Early Retirement Scheme.

7. **Grazing of animals owned by others.**

7.1. Where a plan provides for the grazing of livestock owned by others the livestock taken in must be managed by the REPS participant, such grazing shall be restricted to a maximum period of four consecutive months between the period April 1<sup>st</sup> to October 31<sup>st</sup> in any calendar year.

7.2. For stable owners or horse breeders who own a minimum of 4 equine LU's on average throughout the year and maintain a minimum stocking rate of 1 equine LU per 4 hectares, the grazing of livestock is permitted throughout the period April 1<sup>st</sup> to October 31<sup>st</sup>.

7.3. The grazing of sheep is permitted at any time throughout the year subject at all times to a maximum period of 4 consecutive months.

7.4. Livery businesses may take in horses throughout the year.

7.5. The movement of livestock between holdings must comply with the Department's Animal Health and Welfare requirements.

8. **Planner**

8.1. Agri-environmental plans shall be prepared by a planner approved for this purpose by the Department. Each approved planner shall be subject to the conditions of approval set down by the Department. Each planner shall have the appropriate professional qualifications and have completed the necessary training course(s) as determined by the Department. A list of approved planners shall be maintained by the Department and will be reviewed on a regular basis. Where the plan includes Natura 2000 land, the input of an approved environmentalist/ecologist is also required. A list of approved environmentalist/ecologist shall be maintained by the Department and will be reviewed on a regular basis.

8.2. A farmer who wishes to apply to join the Scheme is free to choose any approved planner from the approved list.

## 9. **Application Procedure**

9.1. Application for support under the scheme and payment claims shall be in accordance with Article 4 of Commission Regulation (EC) No 1975/2006.

9.2. Applications for support under Agri-environment may be submitted at any time during the year.

9.3. To make an application for support, the farmer shall engage an approved planner to have an agri-environmental plan prepared addressing the measures in paragraph 11. 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.

9.4. Eligibility for payment will commence on the first day of the month following receipt of a valid application

9.5. Cumulation of aid allowed is set out at Annex 5.

## 10. Payment Claims:

To activate payment in the first year a farmer must make a Payment claim in accordance with the deadline for the submission of Single Payment applications.

For second and subsequent payments, an annual single payment application must be made and at the end of his/her recording year, an annual declaration must be made by the farmer on the prescribed form.

## 11. **Measures to be undertaken**

11.1 The measures to be carried out shall be set out in an agri-environmental plan, prepared by an approved planner, in compliance with the Specification for REPS Planners and these Scheme terms and conditions.

11.2 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 & soil 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,
- VII. establish biodiversity strips surrounding 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.

11.3 In addition to the basic measure participants farming at or below 170 kg organic nitrogen per hectare must choose a minimum of two of the biodiversity undertakings set out in ANNEX 6, at least one of which is from Category 1.

Participants farming above 170 kg organic nitrogen per hectare must have a valid Nitrates derogation and must choose a minimum of three of the biodiversity undertakings set out in ANNEX 6, at least two of which is from Category 1. The derogation must be renewed annually.

11.4. Natura 2000 sites

11.5 Participation in the Natura 2000 measure is mandatory for participants with Farmland-based Special Areas of Conservation (SACs) designated under Council Directive 92/43/EEC on the Conservation of Natural Habitats, Special Protection Areas (SPAs) designated under Council Directive 79/409/EEC on the protection of Wild Birds and areas designated under the Water Framework Directive 2000/60/EC.

11.6 Participants in REPS farming Natura 2000 sites must comply with the farming conditions for these specific areas.

11.7 Non designated commonages and NHAs

11.8 Natural Heritage Areas (NHAs) are those areas formally designated by the Minister for Environment, Heritage, and Local Government;

11.9 Additional requirements are mandatory in the General REPS Programme where all or part of the lands farmed are in these sites.

11.10 Farming conditions for certain specific habitat types referred to at 11.4 and 11.7 and 11.8 above are set out in the Specification for REPS Planners and the Farmer's Handbook.

11.11 For other habitat types, appropriate environmental conditions shall be set down in the plan.

11.12 REPS plans which include commonage/grazing rights must comply with the Commonage Framework Plan (CFP) prepared for each commonage/grazing rights area as approved by both the Department and the Department of Environment, Heritage and Local Government.

11.13 Each shareholder must comply with the provisions of the CFP in proportion to his/her share of the commonage/grazing rights. Each applicant to the Scheme will be required to submit a detailed REPS plan for all land farmed.

11.14 The planner shall incorporate any further requirements as set out in the Specification for Planners.

11.15 The maximum stock numbers allowed on the farm and periods of grazing on the commonage shall be set out in the agri-environmental plan and shall be in accordance with the CFP.

11.16 The maintenance of the planned stock numbers on the commonage 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 CFP is pending, reductions in ewe numbers shall be determined by the approved planner when drawing up a REPS plan.

## **12. Supplementary Measures**

12.1. The following supplementary measures are available to participants in REPS and claims for supplementary payment must be in accordance with the table at Annex 4.

- Conservation of wild bird habitat
- Traditional Irish orchards
- Conservation of Animal Genetic Resources
- Riparian Zones
- LINNET (Land Invested in Nature, Natural Eco-Tillage) Habitats
- Low-Input Tillage Crops
- Min-Tillage
- Traditional Sustainable Grazing
- Clover Swards
- Mixed grazing
- Lake Catchments
- Heritage Buildings

12.2 It is a requirement that participants elect for supplementary measures from the commencement of the five-year REPS Plan, with the exception of Lake Catchments and Heritage Building supplementary measures, as a condition of eligibility for payment.

## **13. Amendments to Plans**

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

- where pursuant to Article 46 of Regulation (EC) No. 1974/2005 a revision of the commitment is required directly related to an amendment to Articles 4 or 5 of Regulation 1782 of 2003. If the participant is unable to accept these new regulatory requirements, he/she may withdraw from the scheme without any requirement for any reimbursement of aid already received.

- where the annual stocking density for a recording year as set out in REPS Plan is to be increased for the coming year by 10% or more or decreased by 20% or more. This requirement is only applicable where there is a change of more than 2 livestock units.
- where the approved plan is found to be deficient,
- where additional land is acquired by inheritance, purchase or lease (see Paragraph 14.1)
- where the contract area is reduced by more than 2 hectares,
- where there is a change in the main farming activity of the holding.

13.2. Participants are required to notify the local office of the Department by completing and lodging the prescribed form within 6 weeks of the commencement date of the following events: –

- Where the contract area is reduced by less than 2 hectares
- Where short-term rented land is not declared by the participant in his/her Single Payment Scheme Application.
- Grazing of livestock owned by others on participant's farm or grazing by livestock owned by participant on another REPS farm.
- Housing and feeding of livestock owned by others on participant's farm or housing and feeding of livestock owned by participant on another REPS farm.
- Where animal manure is imported or exported.

## **14. Changes in Contract Area Farmed**

14.1. Additional land acquired

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

- notify the Department within 6 weeks of taking possession of the additional land.
- submit new 5-year plan during the 6 weeks period before the next anniversary date.

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

- notify the Department within 6 weeks of taking possession of the additional land,
- submit an amended plan with the accompanying 1C within 2 months of the next anniversary date.

14.4 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 of taking possession of the additional land,
- submit an amended plan with the accompanying 1C within 2 months of the next anniversary date.

#### 14.5 Reduction in Area

14.6 Where the eligible area 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 14.11

14.7 Where a participant fails to complete his/her 5-year term in REPS/Natura 2000 aid already paid must be reimbursed.

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

- 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.
- Where the existing plan is continued for the remainder of the 5 year period by a non-Reps participant who has other land, the person taking over submits a Repls application within 6 weeks of the date of transfer/lease, and to submit a new plan incorporating all of the lands within 6 weeks of the next anniversary date.
- where a participant has ceased farming and has completed three years of the plan (Where a fourth or fifth year payment has issued and the participant does not complete the full year for which payment was advanced a proportionate re-imburement will apply to that payment.)
- 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 REPS application within 6 weeks of the transfer of the land.
- in respect of lands afforested under Council Regulation (EC) No. 1698/2005 (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).
- 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:
  - divorce or judicial separation proceedings or
  - a marital settlement or separation agreement.

14.9 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 14.2.6 below.

14.10 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/Natura 2000 plan shall be recalculated on the remaining eligible land.

14.11 If re-imbusement is required it shall be at the rate of €205 per hectare of land not designated Natura 2000, NHA or commonage up to a maximum of 40 ha. On Natura 2000, NHA and Commonage land the re-imbusement rate shall be €282 per ha up to a maximum of 40 ha.

If the area disposed of is in excess of 40 ha, reimbursement on the area disposed of in excess of 40 ha will be at the relevant payment rate. Interest shall apply at the rate provided for under SI 463/2003.

### **15. Monitoring and Evaluation**

15.1. Monitoring and evaluation of the REPS programme shall be carried out in line with the provisions of Commission Regulations (EC) Nos. 1974 and 1975 of 2006.

### **16 Plan and Compliance Checks**

16.1. All applications for support and payment claims will be subjected to administrative checks and any other controls deemed necessary before payments are made under the Scheme. Applicants shall facilitate such checks and inspections as the Department deems necessary. REPS applications will be cross checked with records held under the Department's Single Payment System (SPS) and Animal Identification and Movement System (AIMS). Pre-payment checks and on-farm inspections will be carried out on a proportion of payment claims.

16.2. Inspections and checks will be carried out at farm level to ensure compliance with the requirements of the Schemes. Participants will be required to certify for second and subsequent payments that farming practices during the previous REPS year were in accordance with these terms and conditions, the REPS plan and the REPS Farmer's Handbook and that farm records were kept in accordance with the requirements of Measure 11.

16.3. Single Payment Scheme (SPS) and Animal Identification Movement System (AIMS). Databases will be checked to ensure Organic Nitrogen limits for each calendar year are not exceeded.

### **17. Payments Procedures – General REPS Programme**

17.1. All payments shall be made following administrative checks, and following an on-farm inspection where appropriate. In second and subsequent years annual payment shall be subject to the participant providing an annual declaration 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 planner. It is the farmer's responsibility to ensure that required documentation for the release of second and subsequent years' payments is submitted.

17.2. Participants may be selected at any time for farm inspection/plan checks.

17.3. Payments rates are set out in ANNEX 4.

### **18. Penalties**

18.1 Failure to comply with the Scheme Terms and Conditions, the agri-environmental plan and/or REPS Farmer's Handbook will result in an appropriate penalty/sanction.

- 18.2. Penalties, will apply to certain specific breaches of the Scheme and are set out in ANNEX I. Monetary penalties will include interest payable at the rate provided for under SI 13/2006. Interest will 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 beneficiary 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.
- 18.3. 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.
- 18.4. 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.
- 18.5. 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.

## **19. GAEC & SMR's**

- 19.1. Maintaining land in good agricultural and environmental condition (**GAEC**) and **in** respect of statutory management requirements (**SMR's**) in accordance with the provisions of articles 4 and 5 of regulation 1782/2003 are mandatory across all structural schemes. The Department publishes conditions for **GAEC & SMR's** (Summary in Annex 7)
- 19.2. If a breach of cross-compliance requirements is detected during a REPS/Natura inspection, the penalty will be cumulative with penalties for any other REPS specific breaches found.
- 19.3. Where under the Single Payment Scheme inspection, a breach of cross-compliance is detected, the level of penalty determined under the SPS will also be applied to the REPS/Natura payment.

## **20. Appeals**

- 20.1. 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.

## **21. Education and Training**

- 21.1. It shall be mandatory for participants to attend an approved 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 (participant).

- 21.2. Participants who have not already completed a training course under REPS 2 or REPS 3 must attend a specific 10-hour REPS appreciation course. Other participants may select any approved REPS course.
- 21.3. The training course must be completed by the Participant/ Farm Manager in the Scheme. In the case of joint applications either applicant may attend the course, but he or she must attend the whole course.
- 21.4. Farmers participating in the appreciation course shall be paid €130 on proof of satisfactory completion of the course. Farmers participating in REPS modular courses shall be paid €100 on proof of satisfactory completion of the course.
- 21.5. A maximum of two payments for attendance at different training courses will be made to any beneficiary.
- 21.6. All training courses shall be organised by approved planners in accordance with syllabus and conditions set down by the Minister or an officer authorised on the Minister's behalf. Courses may include an on-farm visit for practical demonstration purposes.
- 21.7. 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 €3,500 per farm per annum.

## **22. Force Majeure**

22.1. 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:

- death of the participant,
- long term professional incapacity of the participant,
- expropriation of a large part of the holding if such expropriation could not have been anticipated on joining the Scheme,
- a natural disaster affecting the holdings agricultural land,
- the accidental destruction of livestock buildings on the farm,
- an outbreak of disease affecting all or part of the livestock on the farm.
- The disposal or vacation of land to satisfy a court order or legal settlement in cases of marital breakdown.

### **Joint/Multiple Applicants**

Where the application is made in more than one name each person named will be jointly and severally responsible for delivery of the commitments entered into and be jointly and severally subject to all Scheme Terms & Conditions.

## **23. Death of participant**

23.1. Where a participant dies within the REPS/Natura 2000 contract period, *force majeure* shall be applied terminating the agreement and no reimbursement of aid already paid shall be sought.

#### 23.2 REPS/ERS Overlaps

A person/persons cannot receive payment under the REP Scheme and Early Retirement Scheme in respect of the same period otherwise a proportionate reimbursement of REPS monies may apply.

### **24. Right of Entry**

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

### **26. Responsibility of Applicant**

26.1. It shall be the responsibility of the applicant to familiarise him/herself with his/her agri-environmental plan, the REPS Farmer's Handbook, Natura 2000 requirements, these Scheme Terms and Conditions and with the consequences for breaches of the Schemes.

26.2. The approval or payment of aid under Schemes does not imply the acceptance by the Minister of any responsibility as regards the obligations undertaken by the participant.

### **27. Failure to abide by the terms and conditions of the Scheme**

27.1 Where, for the purposes of obtaining payment under the Schemes to which these terms and conditions relate, the applicant knowingly makes a false or misleading statement or withholds essential information, his/her participation in any or all of the Schemes may be terminated and all or part of the aid paid shall be reimbursed.

27.2. 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 all or any of the Schemes for such period as shall be determined, but in any event not exceeding a period of 5 years.

27.3. Where a beneficiary fails to abide by the terms and conditions of the relevant schemes 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, participation 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.

27.4. The Minister reserves the right to



- review and, if necessary, to terminate participation in the REPS and Natura 2000 Schemes and to seek re-imburement of aid paid where no improvement to the environment is evident.
- exclude from payment an area of land where it is evident that it's inclusion will not result in environmental improvement.

27.5. The obtaining of aid or the attempt to obtain aid under any or all of the Schemes by fraudulent means by the applicant or others acting alone or together may render such persons liable to prosecution.

### **28. Review of Financial Aids**

28.1. 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.

### **29. Procedures**

29.1. The Minister reserves the right to alter from time to time the procedures to be followed in the operation of these Schemes.

### **30. Conditions of payment**

30.1. Every payment under these Schemes shall be subject to conditions laid down by the Minister, which must be complied with in full by the applicant.

### **31. Tax Clearance Requirement**

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

### **32. Information and Data Protection**

32.1. The Minister reserves the right to make public information regarding the areas covered by these Schemes including the number of participants, farms, historical and archaeological sites, hectares covered etc. and other information required for environmental purposes and 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.

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

32.3. Participants agree to be bound by the provisions of Article 57(3) and Annex VI, paragraph 2.1 of Commission Regulation No 1974/2006 which provides, inter alia for the publication of a list of scheme beneficiaries and the amount of public contributions allocated.

### **33. Further Conditions**

33.1. The Minister may at any time lay down further conditions under these Schemes.

### **34. Transitional Rule**

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

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

### **35. Interpretation**

35.1. The Department may expand upon, explain, interpret or define the meaning of any aspect of the Terms or Conditions of the Schemes, the Farmer's Handbook and/or the Specification for Planners.

## **ANNEX 1**

### **Penalty Schedule for REPS**

#### **Administrative Penalties**

##### **Late lodgement of annual payment claims**

Annual payment claims are an integral part of the single payment application. With effect from 1 Jan 2008, where the single payment application is not submitted within the specified period under that scheme a penalty of 1% per working day will apply to REPS/Natura payments. If the delay in the submission of the single farm payment application 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.

##### **Annual Declaration (Form 1C)**

Where the annual declaration of compliance is not submitted within the period specified, a penalty of 1% per working day will apply to REPS/Natura payments. If the delay in the submission of the annual declaration (Form 1C) amounts to more than 25 working days, no aid shall be granted for the recording year.

##### **Notification of minor REPS amendment**

Where the appropriate notification of minor changes on the prescribed form is not submitted within specified periods; future payments will be withheld until appropriate documentation is submitted.

##### **Over-declaration on IACS**

Where the area claimed is over-declared on IACS, payments under REPS/Natura will be adjusted and will be calculated on the basis of the area determined reduced by twice the difference found if that difference is more than either 3% or 2 hectares, but no more than 20% of the area determined. If the difference is more than 20% of the area determined no aid will be granted.

##### **Cross-compliance**

In addition to scheme specific penalties the provisions as set out in paragraph 19 shall apply in all cases for breaches of cross-compliance.

## Penalty Schedule

		Penalty range
<i>Measure 1</i> Nutrient Management Plan	Recommended quantity of lime not applied as scheduled	1%-3%
	Planned silage storage facilities/remedial work not carried out	1%-3%
	Planned animal housing facilities/remedial work not carried out	1%-3%
	Planned organic storage facilities/remedial work not carried out	1%-3%
	Failure to empty organic storage as per REPS Plan	1%-3%
	Planned Chemical P exceeded	3%-50%
	Chemical N exceeded	3%-50%
	Planned Organic N exceeded	3%-50%
<i>Measure 2</i> Grassland & Soil Management	Stock not housed for core winter period	1%-3%
	Stock not wintered as set out in plan <sup>1</sup>	1%-3%
	Planned rotation of Maize crop not complied with	1%-3%
Bio-diversity Undertaking	Non-compliance with each of the specific requirements under these measures	1%-3%
<i>Measure 3</i> Protect & Maintain Watercourse, Waterbodies & Wells	fences not located the specified distance from watercourses/ waterbodies marked blue on the map	1%-3%
	Bovines not excluded from watercourses/ waterbodies marked blue on the map ( Watercourses not fenced)	25%-50%
	Well unfenced or fence not located the specified distance from well marked blue on the map.	25%-50%
Bio-diversity Undertaking	Non-compliance with each of the planned specific requirements under these Measures	1%-3%
<i>Measure 4</i> Retain Wildlife Habitats	Evidence of damage/removal of habitats not designated SAC/SPA/NHA	5%-50%
	Conservation/management practices not carried out on habitats as specified in Plan	1%-25%
Bio-diversity undertaking	Non-compliance with each of the planned specific requirements under the Measures	1%-3%

<sup>1</sup> A tolerance of 20% is acceptable beyond which non-compliance is recorded

<i>Measure 5</i> Maintain Farm & Field Boundaries	Failing to maintain stockproof external farm boundaries no animals present on parcel.	1%-3%
	Permanent field boundaries on map not retained	5%-50%
	Hedgerows/stonewalls not maintained as in plan	3%-50%
Bio-diversity undertaking	Non-compliance with each of the planned specific requirements under these Measures	1%-3%
<i>Measure 6</i> Restricted use of pesticides & fertilisers near field boundaries, ponds,streams & wells.	Pesticides or chemicals/organic fertilisers applied within prescribed distances from hedgerows/walls/wells/watercourses/waterbodies/public water supplies/dwelling houses/public buildings/ amenity areas/school grounds	1%-3%
<i>Measure 7</i> Establish biodiversity buffer strips surrounding features of historical and archaeological interest	Conservation/management practices pertaining to archaeological monuments/features in plan not adhered to	25%-50%
Bio-diversity undertaking	Non-compliance with each of the planned specific requirements under the Measure	1%-3%
<i>Measure 8</i> Maintain and improve visual appearance of farm & farmyard	Undertakings in respect of farm and farmyard not carried out as planned	1%-3%
Bio-diversity undertaking	Non-compliance with each of the planned specific requirements under the Measures	1%-3%
<i>Measure 9</i> tillage crop production	Field margin widths not in conformity with REPS requirements for tillage or reseeding grassland.	1%-3%
Bio-diversity undertaking	Non-compliance with each of the planned specific requirements under the Measures	1%-3%
<i>Measure 11</i> Maintenance of farm & environmental records	Records not kept as prescribed	25%-50%
<i>Measure A</i> Natura 2000, NHA, Commonages	Non compliance with specific site conditions	25%-50%

Severity, Extent and Permanence shall be taken into account in determining the appropriate penalty.

Where on a second or subsequent inspection further breaches of the REPS conditions are detected a penalty of 10% or double the penalty imposed for the initial breach, whichever is the greater, will be applied.

In case the non-respect results from irregularities committed intentionally, the beneficiary shall be excluded from the measure in question for the EAFRD year concerned as well as for the following EAFRD year.

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.

### **Non-compliance with Supplementary Measures**

A penalty of 50% of the supplementary measure payment will apply to the first infringement and 100% for subsequent infringements detected during the contract period.

### **Non –compliance with specific farming conditions for Natura 2000 sites, Natural Heritage Areas and non Natura Commonage**

Non-compliance shall result in a minimum penalty of 25% of the total Natura 2000 and Agri-environment entitlements of the beneficiary for the year in question.

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:

- (a) the creation/enlargement of the holding and/or
- (b) the management of the holding as a separate unit.

3. The factors that may be considered when examining the creation/enlargement of holding include: -

- (a) the planned benefit to the environment
- (b) the income foregone and expenditure by reference to the Plan
- (c) the farming activity
- (d) the economic viability
- (e) the planned undertakings
- (f) Area Aid declarations
- (g) 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:-

- (a) separate herd numbers
- (b) herds maintained separately
- (c) herds handled separately in separate handling facilities
- (d) separate Area Aid declarations
- (e) separate REPS applications, where applicable
- (f) stock-proofed boundaries
- (g) independent access to holdings
- (h) separate farm accounts/financial records/other documentary evidence
- (i) 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
5. 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 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 must be available for on-farm inspection purposes. Any amendments/changes to the lease must be by way of addendum.

#### **Land eligible for payment:**

Land eligible for payment, subject to paragraph 6.4, includes all land parcels which are under the 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 IACS database and continue to be declared by him/her for the five years of the REPS agreement.

#### **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, these lands must be included annually by the applicant/s 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)**

<b>Amounts of support</b>	
	<b>Amount</b>
<b>General REPS Programme</b> (Core measures plus options)	€234 /ha up to 20ha €205 /ha for next 20ha up to 40 ha €82 /ha for the next 15ha up to 55ha €10 /ha thereafter
<b>Non-Natura 2000 commonage and NHA land</b>	€282/ha up to 40ha, €29 /ha for the next 40ha up to 80ha. €22 /ha for the next 40ha up to 120ha; and €5/ha thereafter

<b>Supplementary Measures</b>	<b>Amount</b>
Rare Breeds	€234 per livestock unit of the breed registered with the breed society.
Riparian Zones	€850 /ha up to a maximum of - 4 ha in respect of salmonid and crayfish sites and - 4 ha in respect of Pearl Mussel sites
Participation in LINNET Project	First hectare €700 From 1 to 2.5 ha €400 per hectare
Low-input tillage Crops	€370/ha up to Maximum of 2.5ha
Minimum tillage	€25/ha up to maximum of 40ha.
Traditional Orchards	€300 per holding
Traditional Sustainable Grazing	€50/ha up to a maximum area of 20ha.
Mixed Grazing	€50/ha up to a maximum area of 20ha.
Lake Catchments	
<ul style="list-style-type: none"> <li>• Whole farm reduction in Organic N by reduction in stock numbers</li> <li>• Traditional hay meadows</li> <li>• Species Rich Grasslands</li> <li>• Increase water course margin</li> <li>• Alternative drinking points</li> <li>• Buffer Zones</li> </ul>	€80/ha  €120/ha up to 2.5ha €120/ha up to 2.5ha €3 per 100m €5 per ha/per drinking unit €200/ha up to maximum of 2.5ha
Clover Swards	€30 /ha up to max of 40ha
Conservation of Wild Birds – Participation in Corncrake Project.	€100 /ha

*Island farmers face additional costs because of their location. It is therefore also proposed that land farmed on off-shore islands will receive an additional 15% to take account of the increased costs of carrying out the agri-environment undertakings.*

**Annex 5  
Cumulation of Aid**

Organic Payment <b>Plus</b>	REPS basic <b>Plus</b>	<b><u>Owned Natura or Any one of</u></b> Linnet Rare Breeds Traditional Orchards Riparian Zone
REPS basic Payment <b>Plus</b>	<b>One of Plus</b> LINNET Riparian Clover Swards Minimum tillage Low Input Cereal Mixed Grazers Traditional Grazing	<b><u>One of</u></b> Rare Breeds Traditional Orchards Wild Birds Habitat # Lake Catchment
REPS basic Payment <b>Plus</b>	Natura2000 <b>Plus</b> <u>And/or</u> Non Natura 2000 NHA <u>And/or</u> Non Natura 2000 Commonage- <u>And/or</u> Riparian <sup>1</sup>	<b><u>One of</u></b> <b><u>LINNET*</u></b> <i>Clover Swards*</i> <i>Minimum tillage*</i> <i>Low Input Cereal*</i> <i>Traditional Grazers*</i> <i>Mixed Grazing*</i> Rare Breeds Traditional Orchards  Wild Birds Habitat # Lake Catchment
<sup>1</sup> Where Riparian is selected none of SMs marked * in column 3 can be chosen. #Lake Catchment SM will have limited application to specific lakes.		

ANNEX 6  
**Biodiversity Undertakings**

	Core Measures	Category 1 Options	Category 2 Options
1	Nutrient Management		
2	Grassland Management	2A Traditional Hay Meadows 2B Species Rich Grassland 2D Use of Clover in Swards	2A Traditional Hay Meadows 2B Species Rich Grassland 2C Mixed Livestock Enterprises 2E Use of Trailing Shoe 2F Control of invasive Species
3	Protection of Watercourses		3A Increased Watercourse Margin 3B No Bovine Access to Watercourses 3C Use of planted buffer zones
4	Retain Wildlife Habitats	4A Creation of New Habitat 4B Tree Planting 4D Establish Farm Woodland	4B Tree Planting 4C Nature Corridors
5	Maintain farm & field Boundaries	5A <i>Coppicing of Hedgerows</i> 5B Laying of Hedgerows 5C Plant  New Hedgerows 5D Additional Stone Wall Maintenance	5A <i>Coppicing of Hedgerows</i> 5B Laying of Hedgerows 5C Plant  New Hedgerows 5D Additional Stone Wall Maintenance
6	Restrict the use of pesticides and fertilisers in and around hedgerows, lakes, ponds, rivers and streams	There are no biodiversity options in relation to Measure 6	
7	Establish biodiversity buffer strips surrounding features of historical and archaeological interest		7A Increased biodiversity buffer strips surrounding features of historical and archaeological interest
8	Visual Appearance of Farm & Farmyard		8A Establish a traditional Orchard of specified varieties of Irish origin  8B. Install bird or bat boxes
9	Produce Tillage Crops respecting Env. Principles	9A Green Cover Establishment 9B Env. Management of Setaside 9C Increased Arable Margins 9D Low input cereals/root crops 9E Minimum tillage Crops	9A Green Cover Establishment 9C Increased Arable Margins 9D Low input cereals/root crops

## ANNEX 7

### Cross-compliance baseline

<b>Table 1 - STATUTORY MANAGEMENT REQUIREMENTS (SMR's)</b>		
SMR 1	Conservation of wild birds	Directive 79/409/EC Articles 3,4 (1,2,4) 5,7 & 8
SMR 2	Protection of groundwater against pollution caused by certain dangerous substances.	Directive 80/68/EC Articles 4 & 5
SMR 3	Protection of the Environment and soil, when sewage sludge is used in agriculture.	Directive 86/278/EC Article 3
SMR 4	Protection of waters against pollution caused by nitrates from agricultural sources.	Directive 91/676/EC Article 4 & 5
SMR 5	Conservation of natural habitats and of wild flora and fauna.	Directive 92/43/EC Articles 6, 13, 15 & 22 (b)
SMR 6	Identification and registration of animals (Pigs).	Directive 92/102/EC Articles 3, 4 & 5
SMR 7	Identification and registration of animals regarding tagging, registers and passports.	Reg. 2629/97/EC Articles 6 & 8
SMR 8	Identification and registration of bovine animals regarding of beef and beef products.	Reg. 1760/2000/EC Articles 4 & 7
SMR 9	Concerning the placing of plant protection products on the market	Directive 91/414/EC Article 3
SMR 10	Concerning the prohibition on the use in stock farming of certain substances having hormonal or thyrotraic action of beta-agonists.	Directive 96/22/EC Article 3, 4, 5 & 7
SMR 11	General principles and requirements of food law and laying down procedures in matters of Food Safety.	Reg.No. 178/2002/EC Articles 14,15, 17(I), 18, 19 & 20
SMR 12	Rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies.	Reg No.999/2001/EC Articles 7, 11, 12, 13 & 15
SMR 13	Community measures for the control of Foot and Mouth disease.	Directive 85/511/EC Article 3
SMR 14	General Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease.	Directive 92/119/EC Article 3
SMR 15	Specific provisions for control and eradication of bluetongue.	Directive 2000/75/EC Article 3
SMR 16	Sets minimum standards for the protection of calves.	Directive 91/629/EC Articles 3 & 4
SMR 17	Sets minimum standards for the protection of pigs.	Directive 91/630/EC Articles 3 & 4 (I)
SMR 18	Rules concerning the protection of animals kept for farming purposes.	Directive 98/58/EC Article 4

**Table 2 - Good Agricultural and Environmental Conditions referred to in Article 5 and Annex IV of Council Regulation (EC) No 1782/2003**

Issue	Standards
Soil erosion: - Protect soil through appropriate measures	<ul style="list-style-type: none"> <li>– Minimum soil cover</li> <li>– Minimum land management reflecting site-specific conditions</li> <li>– Retain terraces</li> </ul>
Soil organic matter: - Maintain soil organic matter levels through appropriate practices	<ul style="list-style-type: none"> <li>– Standards for crop rotations where applicable</li> <li>– Arable stubble management</li> </ul>
Soil structure: - Maintain soil structure through appropriate measures	<ul style="list-style-type: none"> <li>– Appropriate machinery use</li> </ul>
Minimum level of maintenance: - Ensure a minimum level of maintenance and avoid the deterioration of habitats	<ul style="list-style-type: none"> <li>– Minimum livestock stocking rates or/and appropriate regimes</li> <li>– Protection of permanent pasture</li> <li>– Retention of landscape features</li> <li>– Avoiding the encroachment of unwanted vegetation on agricultural land</li> </ul>

