

The Tir Cynnal (Wales) Regulations 2006

These Regulations provide for various grant payments to be made to any person who enters into an agreement with the National Assembly to take part in the Tir Cynnal agri-environment scheme.

Standing Order 11.7

The following points have been identified for reporting under Standing Order 11.7.

Regulation 4(1) provides that, one of the conditions for entering a Tir Cynnal Agreement is the “following” of the conditions set out in Parts 1,2,3 and 4 of the Schedule to the Regulations. It is apparent from the English text that in this context “following” means ‘to comply with’. However, in regulation 4(2) of the Welsh text “following” is translated as “cydymffurfio” i.e. “to comply” and also as “dilyn” but as “canlynol” i.e. “next” where it occurs for the third time in paragraph (2). [Standing Order 11.7(v) and (vi)].

The Regulations occasionally make use of terms and expressions other than the defined term “Tir Cynnal agreement holder”. In the Welsh text of regulation 13(5) reference is to “agreement holder” rather than to “Tir Cynnal agreement holder”. The expressions “your” (in the Welsh text only) “you” “farm” and “farmer” (English and Welsh texts) in Part 2 in the Schedule also require correction along similar lines. [Standing Order 11.7(v)]

Regulation 10 deals with changes in occupation. Regulation 10(4) requires redrafting as it implies that a Tir Cynnal agreement may be entered between a Tir Cynnal agreement holder and the new occupier of the Tir Cynnal land. [Standing Order 11.7(v)]

The above mentioned drafting errors and discrepancies may be corrected by Memorandum of Correction.

Various drafting errors have been identified under Standing Order 11.7(v) in the Schedule to the Regulations. These may be incorporated in the Memorandum of Correction.

In Part 1 – Whole Farm Section:-

- There are two conditions headed ‘Public Access’; the second entry repeats the second bullet point of the first. This is considered unnecessary and should be removed.

In Part 2 – Wildlife Habitats:-

- In the opening paragraph of the Welsh text the words “ar eich tir” (on your land) are inappropriate for use in a statutory instrument and should be replaced with suitable wording. The English text uses “the agreement land” which is a more appropriate phrase and the Welsh text should be amended accordingly.
- In the final paragraph, in the Welsh text, a reference to wildlife habitats required.
- Under the heading “Safeguarding Wildlife Habitats – Conditions. the words “Tir Cynnal requires that at least 5% of the land under an agreement have to be classified as wildlife habitat and protected from damage” should be removed as they are inappropriate to a statutory instrument, although they would be suited to an explanatory booklet accompanying an application form and they effectively duplicate the condition set out at the beginning of Part 2.

- In all instances where it appears, “(refer to safe guarding wildlife habitat prescriptions in Part 2)” should be deleted.
- In the Welsh text of ‘prescriptions for leaving uncropped margins on cereal land’ there is a superfluous reference to “rheol 5%” at the end of the second bullet point which should be removed.

In Part 3 - Farm Resource Plan:-

- The paragraph beginning “Preparing the farm resource plan...” should be deleted as it explanatory in nature and is of no legislative effect.

Observations

It is apparent that ‘glitches’ in the drafting software have created errors in the numbering and lettering of the Welsh text. These may be corrected on publication.

The format of the Schedule is unusual in that the various parts are set out with headings and bullet points rather than numbered (and/or lettered) paragraphs; it is akin to an explanatory booklet which would accompany an application form. Given that regulation 4 makes it clear that the Schedule contains four conditions which are to be followed if a Tir Cynnal agreement is entered into and that the subject matter of these conditions will be familiar to the target audience, no action is required at the present time to amend this format. However, if amending legislation is made at some time in the future, then the Schedule needs to be redrafted.

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