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SCOTTISH STATUTORY INSTRUMENTS

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**2001 No. 300**

**AGRICULTURE**

**The Rural Stewardship Scheme (Scotland) Regulations 2001**

*Made* - - - - - *7th September 2001*  
*Laid before the Scottish*  
*Parliament* - - - - - *7th September 2001*  
*Coming into force* - - - *28th September 2001*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(1) and section 98(1) and (2) of the Environment Act 1995(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Rural Stewardship Scheme (Scotland) Regulations 2001 and shall come into force on 28th September 2001.

(2) These Regulations extend to Scotland only.

**Interpretation**

2.—(1) In these Regulations—

“1991 Act” means the Agricultural Holdings (Scotland) Act 1991(3);

“activities” means the activities referred to in regulation 3(3) and “activity” shall be construed accordingly;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding or keeping, the use of land as grazing land, meadowland, osier land, reed beds, market gardens and nursery grounds;

“applicant” means a person who has made an application for aid under these Regulations and in regulations 11 to 14 includes a person whose application for aid has been accepted and a person who takes on an undertaking on a change of occupation as provided in regulation 10;

“application for aid” means an application for aid under these Regulations;

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(1) 1972 c. 68; section 2(2) was amended by the Scotland Act 1998 (c. 46) Schedule 8, paragraph 15. The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(2) 1995 c. 25. See definition of “appropriate Minister” in section 98(5). The functions of the Secretary of State were transferred to Scottish Ministers by virtue of section 53 of the Scotland Act 1998. The requirement to obtain the consent of the Treasury was removed by section 55 of the Scotland Act 1998.

(3) 1991 c. 55.

“authorised person” means a person who is authorised by the Scottish Ministers, either generally or specifically, to act in relation to matters arising under these Regulations;

“Commission Regulation” means Commission Regulation (EC) No. 1750/1999/(4), (as amended by Commission Regulation (EC) No. 2075/2000(5)), laying down detailed rules for the application of the Council Regulation;

“Council Regulation” means Council Regulation (EC) No. 1257/1999(6) on support for rural development from the European Agricultural Guidance and Guarantee Fund;

“eligible land” means land which is used for agriculture;

“environmental audit” means a report of a survey of eligible land which identifies the extent and location of features of environmental interest (including flora and fauna, landscape and water features and features of archaeological interest), the opportunities for enhancement of such features and a written statement which outlines proposals (if any) for the management of eligible land, including permanent grassland and waste management;

“grazings committee” means a committee appointed under section 47(1) or (3) of the Crofters (Scotland) Act 1993(7) and includes a grazings constable;

“landlord” means—

- (a) in the case of an agricultural holding to which the 1991 Act applies, the landlord within the meaning of section 85 of that Act;
- (b) in the case of a croft within the meaning of the Crofters (Scotland) Act 1993, the landlord within the meaning of section 61(1) of that Act;
- (c) in the case of a holding within the meaning of the Small Landholders (Scotland) Act 1911(8) to which the 1991 Act does not apply, the same as it means in the 1911 Act,

and, where appropriate, includes a head tenant;

“moorland” means land with predominantly semi-natural upland vegetation or comprising predominantly rock outcrops and semi-natural upland vegetation used primarily for rough grazing;

“relevant period” means a period of not less than 5 years;

“tenant” means—

- (a) in the case of an agricultural holding to which the 1991 Act applies, the tenant within the meaning of section 85 of that Act;
- (b) in the case of a croft within the meaning of the Crofters (Scotland) Act 1993, the crofter within the meaning of section 3(3) of that Act;
- (c) in the case of a holding within the meaning of the Small Landholders (Scotland) Act 1911 to which the 1991 Act does not apply, the tenant within the meaning of section 2(2) of the 1911 Act,

and, where appropriate, includes a sub-tenant;

“undertaking” means an undertaking mentioned in regulation 3(2).

(2) A reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(9) which has been recorded and is consequently capable of being reproduced.

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(4) O.J. No. L 214, 13.08.99, p.31.

(5) O.J. No. L 246, 30.09.01, p.46.

(6) O.J. No. L 160, 26.06.99, p.80.

(7) 1993 c. 44.

(8) 1911 c. 49.

(9) 2000 c. 7.

(3) Any reference in these Regulations to a numbered regulation or numbered Schedule, shall be construed as a reference to the regulation or Schedule so numbered in these Regulations.

(4) Any reference in these Regulations to a numbered paragraph, shall be construed as a reference to the paragraph so numbered in the regulation in which the reference occurs.

(5) Words and phrases used in Schedules 1 to 4 and not defined in paragraph (1) shall be construed in accordance with Schedule 5.

### **Payments of aid to enhance the environment**

**3.**—(1) Subject to the provisions of these Regulations, the Scottish Ministers may make payments of aid in respect of an undertaking to which these Regulations apply, to an applicant who—

- (a) is the owner or tenant of the eligible land to which such undertaking relates and is in lawful occupation of that land; and
- (b) has made an application for aid which has been accepted by the Scottish Ministers.

(2) These Regulations apply to an undertaking in writing by the applicant, for the relevant period—

- (a) to comply with, in relation to the whole of the eligible land to which the undertaking relates, the general environmental requirements set out in Part I and Part II of Schedule 1; and
- (b) to carry out, or as the case may be, to carry out and maintain, at least one of the activities referred to in paragraph (3).

(3) The activities mentioned in paragraph (2) are—

- (a) the management activities set out in column 1 of Schedule 2 to be undertaken on any part of the eligible land to which the undertaking relates in accordance with the requirements specified in column 2 and column 3 of that Schedule in relation to that activity; and
- (b) the capital activities set out in column 1 of Schedule 3 to be undertaken and maintained on any part of the eligible land to which the undertaking relates in accordance with the requirements specified in column 2 of that Schedule in relation to that activity.

(4) The Scottish Ministers may contribute towards the cost of preparing an environmental audit and a moorland management plan included in an application for aid where such audit and, as the case may be, such plan have been prepared in accordance with any requirements made by the Scottish Ministers as to the form or content of such audit or plan.

### **Applications for aid**

**4.**—(1) An application for aid shall be made in writing at such time and in such form and shall contain such information as the Scottish Ministers may require.

(2) An application for aid under paragraph (1) shall include—

- (a) a copy of an environmental audit carried out in relation to the eligible land to which the application relates;
- (b) a map which shows all of that land and which identifies all flora and fauna, landscape and water features and archaeological features;
- (c) a map which shows any flora and fauna, landscape and water features and archaeological features relevant to the activities which the applicant proposes to undertake;
- (d) a description of those activities and the flora and fauna which are expected to benefit;
- (e) where the environmental audit identifies moorland which would benefit from management and the applicant proposes to undertake any activities to benefit all or any part of the

identified moorland, a moorland management plan for the relevant period in relation to all or any part of the identified moorland;

- (f) an estimate of the aid to be sought for such activities for each year of the proposed undertaking;
- (g) the proposed date of commencement of the undertaking; and
- (h) where an application is made by a grazings committee—
  - (i) the written consent of a majority of the crofters ordinarily resident in the township and sharing in the common grazing the subject of the application;
  - (ii) evidence that notice has been given in accordance with regulation 5(4); and
  - (iii) confirmation from the Crofters Commission that it has approved the application or, as the case may be, has received no representation under regulation 5(5).

(3) The Scottish Ministers may at any time suspend the operation of the scheme provided for by these Regulations and, while so suspended, no application under paragraph (1) may be submitted to them.

#### **Crofters common grazings**

5.—(1) Subject to paragraph (4), a grazings committee, may with the consent of a majority of the crofters ordinarily resident in the township and sharing in the common grazing, make an application for aid in relation to that common grazing.

(2) Where an undertaking is given by a grazings committee, such undertaking shall include an obligation upon the committee to bind their successors in office to the undertaking.

(3) Subject to paragraph (4), payments of aid to a grazings committee shall be made to the clerk of the grazings committee and the clerk shall divide the aid among the eligible crofters in such proportion as determined by the grazings committee.

(4) Prior to making an application, a grazings committee shall give notice of their intention to do so and of their proposed division of the aid under paragraph (3), by serving notice in writing of the proposals on all crofters sharing in that common grazing.

(5) Any such crofter as is mentioned in paragraph (4) may within one month of the date of the notice under that paragraph make representation in respect of the proposals to the Crofters Commission who may approve the proposals with or without modification or reject them.

#### **Restrictions on acceptance of applications for aid**

6.—(1) The Scottish Ministers shall not accept an application for aid—

- (a) in relation to any eligible land which is occupied by a tenant unless they are satisfied that the tenant has notified the landlord, and in the case of a sub-tenant, the owner of the eligible land and the mid-landlord, of the intention of that tenant to make an application;
- (b) if they are satisfied that the use of the land in accordance with the proposals contained in the application would frustrate the purposes of any assistance previously given or to be given out of money provided by or under any statutory provision or by the European Community;
- (c) if they are satisfied that any payment under these Regulations would duplicate any assistance previously given or to be given out of money provided by or under any statutory provision or by the European Community;
- (d) where the applicant is prohibited from giving the undertaking under these Regulations by application of a penalty consequent upon Article 48(2) of the Commission Regulation

(which requires Member States to determine a system of penalties for breaches of the obligations entered into and of regulatory provisions applicable to the case);

- (e) where the applicant is excluded from all aid under Chapter VI of Title II of the Council Regulation by virtue of Article 48(3) of the Commission Regulation (which requires a person who, intentionally or by reason of serious negligence, makes a false declaration to be excluded from all rural development measures falling under the relevant chapter of the Council Regulation) and the payment of aid in respect of the proposed undertaking would include such aid.

(2) The Scottish Ministers shall not accept an application for aid without first having agreed with the applicant the date of commencement of the undertaking, which shall in no circumstances be earlier than the date on which the application was accepted.

### **Determination of applications for aid**

7.—(1) The Scottish Ministers may approve (in whole or in part) or may reject an application for aid and in determining whether an application should be so approved or rejected, they shall have regard to—

- (a) the environmental benefits expected to be derived from the carrying out of the activities described in the application;
- (b) the aid likely to be required and how that value compares with other applications; and
- (c) the value for money which the undertaking represents having regard to sub paragraphs (a) and (b).

(2) Approval of an application may be subject to such conditions as the Scottish Ministers think fit.

(3) The Scottish Ministers may vary an approval of an application for aid as they think fit including any conditions subject to which it was given.

(4) Before varying an approval or amending conditions attached to an approval in accordance with paragraph (3) above, the Scottish Ministers shall—

- (a) give to the person to whom the application has been granted written notification of the action proposed to be taken;
- (b) give that person an opportunity to make representations about the action proposed to be taken within such time and in such form as the Scottish Ministers may require; and
- (c) consider any such representations.

### **Rates of payment**

8.—(1) The amount of aid payable under regulation 3(1) shall, subject to the provisions of this regulation, be calculated with reference to the activity undertaken, and the rate of payment in respect of each activity described in column 1 of Schedule 4 shall be the rate shown opposite the entry for that activity in column 2 of that Schedule.

(2) Where activities are to take place on areas of in-bye land of 100 hectares or more, areas of rough grazings (including moorland) of 1000 hectares or more or areas of common grazings of 2000 hectares or more, the amount of aid payable under regulation 8(1) shall be reduced to 80% of the amount calculated in accordance with regulation 8(1).

(3) The amount payable under regulation 3(4) in respect of an environmental audit or a moorland management plan shall be determined by reference to the rates of payment specified in column 2 of Part III of Schedule 4 corresponding to such audit or plan.

### **Claims and payment**

9.—(1) A claim for aid under regulation 3(1) shall be made in writing at such time and in such form and shall contain such information as the Scottish Ministers may require.

(2) Payment of aid under regulation 3(1) shall be made—

- (a) in the case of a payment relating to an activity included in an undertaking specified in column 1 of Part I of Schedule 4, by annual instalment paid in arrear; and
- (b) in the case of a payment relating to an activity included in an undertaking specified in column 1 of Part II of Schedule 4, upon completion of the work.

(3) Payment as provided in paragraph (2) shall be made only where the Scottish Ministers are satisfied that—

- (a) the general environmental requirements set out in Part I and Part II of Schedule 1 have been complied with during the period to the date of payment; and
- (b) the requirements set out in columns 2 and 3 of Schedule 2 and, as the case may be, the requirements set out in column 2 of Schedule 3, in relation to that activity have been met.

(4) Payment under regulation 3(4) shall be made upon determination of an application for aid in accordance with regulation 7.

(5) The provisions of these Regulations are insofar as the aid claimed includes aid under the Council Regulation, subject to Article 37(3) of the Council Regulation and Article 31 of the Commission Regulation (combination of aids).

### **Change of occupation of land**

10.—(1) Where during the period of an undertaking, there is a change of occupation of all or any part of the land to which that undertaking relates, subject to the provisions of this regulation, the Scottish Ministers shall accept an undertaking from the new occupier.

(2) Where such a change of occupation occurs the former occupier (or, if that occupier has died, the occupier's executors) shall within 3 months notify the Scottish Ministers in writing of the change of occupation, and shall supply to the Scottish Ministers such information relating to that change in such form and within such period as the Scottish Ministers may determine.

(3) A new occupier of all or any part of the land who wishes to take on the undertaking shall furnish the Scottish Ministers with such information in such form and within such period following the change of occupation as the Scottish Ministers may determine.

(4) A new occupier of all or any part of the land may take on the undertaking where the Scottish Ministers are satisfied that—

- (a) the former occupier had complied with the undertaking to the date of the change of occupation; and
- (b) the new occupier is the lawful occupier of the land and has since the date of the change of occupation complied with the undertaking.

(5) A new occupier of all or any part of the land or, as the case may be, the former occupier of all or any part of the land may take on the undertaking insofar as it extends to that part of the land which that person occupies, or as the case may be continues to occupy, where the Scottish Ministers are satisfied that—

- (a) such new occupier or, as the case may be, such former occupier of all of the land, is the lawful occupier of the part of the land which that person occupies and has since the date of change of occupation complied or, as the case may be, continued to comply with the undertaking insofar as it extends to the part of the land which that person occupies; and

- (b) it is reasonable for the occupier to do so having regard to the activities included in the undertaking and the part of the land which is occupied by the new occupier or, as the case may be, continues to be occupied by the former occupier of all the land.

(6) Where during the period of an undertaking, an occupier increases the area of their landholding the occupier shall comply with the general environmental requirements set out in Part I and II of Schedule 1 as regards the increased area of landholding and, if the occupier wishes the undertaking to also apply to the increased area of landholding, the occupier shall submit to the Scottish Ministers an application for aid in accordance with regulation 4.

(7) Where occupation of the land is divided, the Scottish Ministers shall determine—

- (a) the extent to which the activities included in the undertaking relate to any part of the land occupied by a new occupier or, as the case may be, the former occupier of all the land; and
- (b) the proportion, if any, of any payments which would be payable under paragraph (8) for the remainder of the period of the undertaking in respect of that part of the land.

(8) Where the Scottish Ministers are satisfied as specified in paragraph (4), they shall, subject to regulation 8, make payments for the remainder of the period of the undertaking to the new occupier of the land who has taken on the undertaking.

(9) Where the Scottish Ministers are satisfied as to the matters specified in paragraph (5), they shall, subject to regulation 8, make payments of such proportion, if any, as they have determined under paragraph (7) are due for the remainder of the period of the undertaking to the new occupier or, as the case may be, former occupier of all the land who has taken on the undertaking.

(10) Where within 3 months from the date of change of occupation the undertaking has not been taken on in accordance with paragraph (4) or, as the case may be, paragraph (5), the Scottish Ministers may—

- (a) withhold the whole or any part of any payment under these Regulations due to the former occupier in respect of the undertaking; and
- (b) recover from the former occupier or make a claim in the former occupier's executry, the whole or any part of any payment awarded under these Regulations already made to that person in respect of the undertaking.

(11) In the application of this regulation to a common grazing "change of occupation" includes the apportionment to a crofter of any land from the common grazing during the period of the undertaking but does not include a change in the membership of the grazings committee.

(12) The provisions of this regulation are, insofar as the aid paid under these Regulations includes aid under the Council Regulation, subject to Article 29 (transfer of holding) and Article 30 (force majeure) of the Commission Regulation, and where by virtue of Article 11 an applicant for aid is required to reimburse the aid paid, in accordance with Article 48 of the Commission Regulation, interest shall be payable thereon at the rate calculated in accordance with that provided in regulation 15.

### **Powers of authorised persons**

**11.**—(1) An authorised person may at all reasonable hours, on producing, if so required, some duly authenticated document showing the authorised person's authority, enter on any land—

- (a) to which an application or undertaking relates; or
- (b) on which the authorised person has reasonable grounds to believe that documents relating to an application or undertaking are being kept, for any of the purposes mentioned in paragraph (2).

(2) The purposes referred to in paragraph (1) are—

- (a) inspecting the land to which the application or undertaking relates;

- (b) verifying the accuracy of any information provided by an applicant or on the applicant's behalf, relating to an application, a claim for aid or an undertaking; and
  - (c) determining whether or not an applicant has complied with an undertaking.
- (3) An authorised person who has entered any land under paragraph (1) may—
- (a) inspect the land and any premises, plant, machinery, equipment, document or record on it which that person reasonably believes relates to an application, a claim for aid or an undertaking;
  - (b) require the applicant, or any employee or agent of such applicant, to produce, or secure the production of, any document or supply any additional information in the applicant's possession or under the applicant's control relating to an application, a claim for aid or an undertaking, as the case may be;
  - (c) where any information referred to in sub-paragraph (b) is kept by means of a computer, have access to any computer and any associated apparatus or material which is or has been used for storing that information and require that information to be reproduced in a form in which it may be easily read and can be taken away;
  - (d) require copies of or extracts from any such document or other record referred to in sub-paragraphs (a) or (b) to be produced;
  - (e) retain a copy of any document produced to the authorised person;
  - (f) seize and retain any document or other record which that person reasonably believes may be required as evidence in proceedings under these Regulations; and
  - (g) in so far as may be necessary for the purposes of paragraph (2)(b) or (c), inspect and count livestock on the land and may, for this purpose, require the applicant, or any employee or agent of such applicant, to arrange for the collection, penning and securing of such livestock.
- (4) An applicant or any employee or agent of such applicant shall give an authorised person all reasonable assistance in relation to the matters mentioned in paragraphs (1) and (3) above.
- (5) An authorised person entering any land under paragraph (1) may be accompanied by—
- (a) any official of the European Commission; and
  - (b) such other person as the authorised person considers necessary,
- and paragraphs (3) and (4) shall apply to that person when acting under the instructions of an authorised person as they apply to an authorised person.
- (6) Paragraph (1) above shall apply to any land used for the purposes of a dwellinghouse only where reasonable notice of its intended exercise has been given to all residents of that dwellinghouse.

### **Breaches of undertakings etc.**

- 12.—(1) Subject to paragraph (2), where—
- (a) any information furnished to the Scottish Ministers by the applicant or on the applicants behalf, is false or misleading in a material respect;
  - (b) the applicant is in breach of any of the terms of an undertaking;
  - (c) the applicant is in breach of any requirement to which the applicant is subject under these Regulations or under the Council Regulation or the Commission Regulation;
  - (d) the whole or any part of any sum paid or payable under an undertaking duplicates assistance provided or to be provided out of monies made available by—
    - (i) the European Community; or
    - (ii) under any statutory provision,

the Scottish Ministers may exercise any of the powers specified in regulation 14.

(2) For the purposes of paragraph (1)(d), a sum duplicates such assistance if it is, or would be, paid for any of the same purposes.

(3) Where—

- (a) there is a change of occupation under regulation 10 and an applicant has transferred all or part of the land to which an undertaking relates to another person (“the successor”);
- (b) the successor has, within three months of the date of the transfer, given notice to the Scottish Ministers to assume the undertaking in place of the applicant; and
- (c) the Scottish Ministers have accepted that undertaking,

the applicant shall be released from their undertaking with effect from the date of the acceptance by the Scottish Ministers of the successor’s undertaking other than in respect of any breach or other matter occurring before the date last mentioned.

#### **Other cases in which recovery etc. powers apply**

**13.** The Scottish Ministers may exercise the powers specified in paragraph (1)(a) and (b) of regulation 14 where they are satisfied that—

- (a) there has been a material change in the nature, scale or timing of the activities in relation to which an undertaking has been made; or
- (b) the activities in relation to which an undertaking has been made are delayed or are unlikely to be completed.

#### **Powers of recovery etc. of the Scottish Ministers**

**14.**—(1) The powers conferred by regulation 12(1) and 13 are—

- (a) to withhold the whole or any part of the aid payable to the applicant; and
- (b) to recover on demand the whole or any part of any aid already paid to an applicant.

(2) Where the powers specified in paragraph (1) are exercised, further to regulation 12(1) and where in the view of the Scottish Ministers, the conduct of the applicant was reckless or was carried out with the intention of breaching of the requirements set out in that paragraph, the Scottish Ministers may also require the applicant to pay to the Scottish Ministers an additional sum equal to no more than 10% of the aid paid or payable to the applicant.

(3) Where the Scottish Ministers take any step specified in paragraph (1), the Scottish Ministers may also suspend or terminate the undertaking, and thereupon any entitlement of the applicant to aid in respect of the unexpired period of the undertaking shall likewise be suspended or terminated, as the case may be.

(4) Where the Scottish Ministers terminate an undertaking under paragraph (3), they may also prohibit the applicant from entering into any new undertaking for such period (not exceeding two years) from the date of the termination as the Scottish Ministers may specify.

(5) The powers conferred on the Scottish Ministers by paragraphs (2), (3) and (4) shall be exercisable by a notice served on the applicant by post at his last known address, and in paragraph (4) “specify” means specify in such notice.

#### **Recovery of interest**

**15.**—(1) Where the Scottish Ministers exercise the power conferred by regulation 14(1)(b) they may also recover on demand interest on the sum to be recovered at a rate of interest one per cent

above the sterling three month London interbank offered rate on a day to day basis from the date of payment until the date of recovery.

(2) In any proceedings for recovery under these Regulations, a certificate issued by the Scottish Ministers stating the rate or rates of interest, the amount of such interest recoverable and the period for which such interest is calculated, shall unless the contrary is shown, be conclusive of those matters.

### **Sums payable to the Scottish Ministers to be recoverable as a debt**

**16.** Where an amount falls to be paid to the Scottish Ministers by virtue of (or by virtue of an action taken under) these Regulations, such amount shall be recoverable as a debt.

### **Offences and penalties**

**17.—**(1) A person is guilty of an offence if—

- (a) for the purposes of obtaining any financial assistance under these Regulations for themselves or any other person, they knowingly or recklessly make a statement which is false or misleading in any material particular; or
- (b) they intentionally obstruct an authorised person (or a person accompanying that person and acting under that person's instructions) in the exercise of the powers under regulation 11.

(2) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Proceedings for an offence under these Regulations may be commenced within the period of six months from the date on which the offence was committed.

(4) Section 136(3) of the Criminal Procedure (Scotland) Act 1995<sup>(10)</sup> (date of commencement of proceedings) shall apply for the purposes of this regulation as it applies for the purposes of that section.

(5) Where an offence under paragraph (1) is committed by a body corporate or a partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate, or any person who was purporting to act in such a capacity (or in the case of a partnership, a partner or a person who was purporting to act as such), that person as well as the body corporate or the partnership, as the case may be, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(6) Where the affairs of a body corporate are managed by its members, paragraph (5) above shall apply in relation to the acts and defaults of a member in connection with the members management functions as if the member were a director of the body corporate.

### **Right of appeal and consequential amendment**

**18.—**(1) Where the Scottish Ministers withhold or recover any aid under regulation 14, the applicant may seek a review of the decision by the Scottish Ministers.

(2) The review referred to in paragraph (1) must be applied for in accordance with the provisions of the Agricultural Subsidies (Appeals) (Scotland) Regulations 2000<sup>(11)</sup>.

(3) The Agricultural Subsidies (Appeals) (Scotland) Regulations 2000 shall be amended by inserting after paragraph (k) of regulation 4—

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<sup>(10)</sup> 1995 c. 46.

<sup>(11)</sup> S.S.I.2000/347, as amended by S.S.I. 2001/50 and 226.

“(l) a decision by the Scottish Ministers to withhold any aid due or recover any aid paid or require payment of a sum under the Rural Stewardship Scheme (Scotland) Regulations 2001, in terms of those Regulations.”.

Pentland House, Edinburgh  
7th September 2001

*ROSS FINNIE*  
A member of the Scottish Executive

SCHEDULE 1

Regulation 3(2)(a)

GENERAL ENVIRONMENTAL REQUIREMENTS

PART I

THE STANDARD OF GOOD FARMING PRACTICE

1. On rough grazings, unimproved grassland, reverted improved grassland, machair and dune grassland, wetlands and native, amenity or semi-natural woodlands, livestock must be managed to avoid either overgrazing or undergrazing.
2. The removal or clearance of drystone or flagstone dykes or walls, hedges and hedgerow trees will not be permitted except with the prior written agreement of the Scottish Ministers.
3. No hedge trimming may be carried out in the period 1st March to 31st July.
4. Scottish Natural Heritage must be notified of any intended operations that are likely to damage any site of special scientific interest on the land.
5. If a new silage or slurry storage facility is constructed on the land, the Scottish Environment Protection Agency must be notified before it is used.
6. Prior authorisation must be obtained from the Scottish Environment Protection Agency before any sheep dip is disposed of on the land.

PART II

GENERAL ENVIRONMENTAL CONDITIONS

1. To avoid damage to the environmental interest of rough grazings, unimproved grassland, reverted improved grassland, machair and dune grassland, wetlands and native, amenity or semi-natural woodlands, new drainage works, ploughing, clearing, levelling, re-seeding or cultivating may not be undertaken. Livestock must be managed to avoid poaching.
2. Pesticides, lime or fertiliser (including farmyard manure and slurry) must not be applied to rough grazings, unimproved pasture, reverted improved grassland, machair and dune grassland, wetlands, water margins, native, amenity or semi natural woodlands and scrub, except in exceptional circumstances and only with the prior written agreement of the Scottish Ministers.
3. Injurious weeds to which the Weeds Act 1959(12) applies must be controlled to prevent their spread and to avoid the risk of damage to the environmental interest of any habitat or feature on the unit.
4. Muirburn may only be carried out in accordance with guidance approved by the Scottish Ministers.
5. The damage or destruction of any of historic or archaeological features or areas must be avoided and guidance approved by the Scottish Ministers must be followed for the protection of such features or areas.
6. Guidance approved by the Scottish Ministers must be followed for the avoidance of pollution.

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(12) 1959 c. 54.

## SCHEDULE 2

Regulation 3(3)(a)

## MANAGEMENT ACTIVITIES

<i>Column 1</i> <i>Management activity</i>	<i>Column 2</i> <i>Site requirements</i>	<i>Column 3</i> <i>Management requirements</i>
1. Extensive management of mown grassland for birds.	A field used for growing an extensive crop of hay or silage.	<p>(a) The field must not be rolled, harrowed or grazed between 1st April and 30th June or until the crop has been secured, whichever is the later;</p> <p>(b) Mowing or the reintroduction of grazing must not take place before 1st July;</p> <p>(c) To minimise the risk of damage to young birds, hay and silage must be cut in accordance with scheme guidance;</p> <p>(d) Artificial fertiliser must not be applied to the field before 15th May. Farmyard manure and slurry may be applied up to 28th February and after 15th May;</p> <p>(e) A strip of uncut grass 2 metres wide must be left around the field boundary; and</p> <p>(f) Pesticides and herbicides may be applied to this strip only with the prior written agreement of the Scottish Ministers.</p>
2. Management of open grazed grassland for birds.	Areas of open in-bye grassland, subject to winter grazing to produce a short sward and with little or no tree cover around the site.	<p>(a) Livestock must be excluded for 6 consecutive weeks between 1st April and 15th June;</p>

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		<ul style="list-style-type: none"> <li>(b) Harrowing or rolling must not be carried out between 1st April and 31st July;</li> <li>(c) Artificial fertiliser must not be applied to the field before 15th May. Farmyard manure and slurry may be applied up to 28th February and after 15th May;</li> <li>(d) Pesticides may be applied only with the prior written agreement of the Scottish Ministers;</li> <li>(e) Topping must not be carried out before 31st July;</li> <li>(f) A strip of untopped grass 2 metres wide must be left around the field boundary; and</li> <li>(g) Pesticides may be applied to this strip only with the prior written agreement of the Scottish Ministers.</li> </ul>
<p><b>3.</b> Extensive management of mown grassland for corncrakes.</p>	<p>A field used for growing an extensive hay or silage crop which is next to an early/late cover area managed for corncrakes or unharvested crop managed under the scheme.</p>	<ul style="list-style-type: none"> <li>(a) The field must not be rolled, harrowed or grazed between 15th May and 31st July;</li> <li>(b) Mowing must not take place prior to 1st August;</li> <li>(c) To minimise the risk of injury to young birds, hay and silage must be cut in accordance with scheme guidance. A strip of uncut grass 2 metres wide must be left around the field boundary; and</li> </ul>

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		(d) Pesticides may be applied to this strip only with the prior written agreement of the Scottish Ministers.
4. Management of early and late cover for corncrakes.	Reverted improved grassland or unimproved grassland on the in-bye with clumps of tall vegetation such as iris, nettles, cow parsley or rush. Each individual site must be at least 0.15 hectare in size and not be more than 1 hectare subject to a maximum area per undertaking of 5 hectares. Such sites must be adjacent to mown grassland managed for corncrakes under this scheme.	(a) No grazing is permitted between 28th February and 30th September, except with the prior written agreement of the Scottish Ministers; (b) At other times grazing must not exceed 0.3 livestock units per hectare, except with the prior written agreement of the Scottish Ministers; and (c) Cutting of the area may only be undertaken with the prior written agreement of the Scottish Ministers.
5. Management of wet grassland for waders.	In-bye wet grassland.	(a) (i) Livestock must be excluded from the site for 6 consecutive weeks between 1st April and 15th June; or (ii) If no barrier exists between the site and adjoining pasture, overall grazing levels must not exceed 1.4 livestock units per hectare for 6 consecutive weeks between

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		1st April and 15th June;
		(b) If rushes occur within the site a programme of cutting, grazing or exceptionally, herbicide treatment to prevent the rushes dominating the site must be agreed with the Scottish Ministers. Note that all rushes should not be removed from the site; and
		(c) Artificial fertiliser or slurry must not be applied to the site. Farmyard manure may be applied up to 28th February and after 15th May.
6. Management of species-rich grassland.	Species rich unimproved grassland on in bye land or grazed machair.	(a) (i) The site must not be grazed or mown for 3 consecutive months between 15th March and 15th August; or (ii) Where the particular environmental interest of a site would not be met by the approach in paragraph (i) above, a livestock management and grazing regime should be set out in a grazing plan to be agreed with the Scottish Ministers;

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7. Bracken eradication programme for species rich grassland, coastal or lowland heath.	Species-rich grassland, unimproved grassland, coastal or lowland heath of environmental interest and identified in the environmental audit as bracken-invaded.	<p>(b) After 15th August, the grass must be grazed down or topped;</p> <p>(c) The site must not be used for supplementary feeding of stock; and</p> <p>(d) Farmyard manure or lime may be applied to the site only with the prior written agreement of the Scottish Ministers.</p> <p>A systematic programme of treatment and follow-up must be carried out, where necessary using an approved herbicide, in accordance with a bracken eradication programme (BEP) laid out in an approved BEP management plan.</p> <p>a. In year one, a detailed BEP management plan must be prepared that incorporates a map drawn to a scale of 1:10000 showing the extent of the invasion, the areas of bracken to be cleared over the life-time of the scheme plan, an estimate of the percentage cover and frond density of the bracken within each area at full frond stage (mid/late June on the west coast to early August in the eastern Borders) and the location of any sensitive species and habitats with appropriate buffer zones to ensure their conservation. Where cutting is to be the means of control no buffer zones are required but the map must show</p>

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		<p>any areas with sensitive species and habitats and where birds are known to nest on the ground;</p> <p>b. As soon as the detailed BEP management plan has been prepared, the applicant or contractor must complete and submit the standard multi-agency application form (with a copy of the BEP management plan scale map showing the area(s) to be treated) to the Scottish Environment Protection Agency, Scottish Natural Heritage and the Local Authority environmental services department. The consultees must then be allowed a minimum of 15 working days to consider and respond to the application for consent;</p> <p>c. The applicant must then submit the letters of consent and the final version of the BEP management plan to the Scottish Ministers as part of their claim for the first year's BEP management payment;</p> <p>d. In year two (or exceptionally in year one if all the requirements detailed in paragraphs (a), (b) and (c) above have been met), the applicant or contractor must carry out primary treatment involving the treatment of dense bracken with an approved herbicide using an appropriate method or by cutting twice during the growing season.</p>

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		<p>It is the applicant's responsibility to ensure that the required prior notice is given to all appropriate consultees in advance of any aerial spraying and that the contractor is provided with a copy of the map to ensure that the treatment is carried out in accordance with the BEP management plan; and</p> <p>e. Follow-up action may be necessary involving repeated annual treatment to clear any bracken re-growth. Where chemical control is used, this normally requires a spot-treatment approach. Where cutting is the means of control, the programme of twice yearly treatments must continue for the duration of the BEP management plan.</p> <p>(a) Any existing grassland cover must be destroyed;</p> <p>(b) A programme agreed with the Scottish Ministers to establish a new sward must be implemented. This may include measures to reduce fertility and address weed problems;</p> <p>(c) The site must be sown with a low productivity grass and herb mix agreed with the Scottish Ministers to create a new sward. Seed of local provenance</p>
<p><b>8.</b> Creation and Eligible arable land. management of species rich grassland.</p>		

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		<p>must be used wherever possible;</p> <p>(d) Except during years one to three, the site must not be mown or grazed between 15th April and 15th August. During years one to three on fertile sites, mowing, with disposal of cuttings may be required. In such cases, mowing may be permitted after 1st July with the prior written agreement of the Scottish Ministers;</p> <p>(e) After 15th August, the grass must be grazed down or topped;</p> <p>(f) The site must not be used as a site for supplementary feeding of stock;</p> <p>(g) Fertiliser, slurry or farmyard manure must not be applied to the site; and</p> <p>(h) Pesticides may be applied only with the prior written agreement of the Scottish Ministers.</p>
<p>9. Management of coastal heath.</p>	<p>Unimproved land bordering the sea containing characteristic moorland or species rich grassland vegetation dependent on salt spray or exposure.</p>	<p>(a) Livestock must be excluded between 1st April and 31st August;</p> <p>(b) The site must be grazed between 1st September and 30th November at a level sufficient only to remove rank growth and lightly crop any dwarf shrubs. In any event grazing</p>

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		<p>must not exceed 1.2 livestock units per hectare;</p> <p>(c) Between 1st December and 31st March any grazing is optional, but it must not exceed 0.15 livestock units per hectare except with the prior written agreement of the Scottish Ministers;</p> <p>(d) The site must not be burnt except with the prior written agreement of the Scottish Ministers; and</p> <p>(e) Fertiliser, slurry or farmyard manure must not be applied to the site.</p>
<b>10.</b> Management of lowland heath.	An area of lowland heath.	<p>(a) Bracken and scrub must be controlled so that cover does not exceed a total of 5%;</p> <p>(b) Livestock must be excluded between 1st November and 28th February; and</p> <p>(c) At other times grazing levels must not exceed 0.3 livestock units per hectare.</p>
<b>11.</b> Management of wetland.	Wetland on in-bye land (including salt marsh and reed beds).	<p>(a) (i) Livestock must be excluded from the site for 4 consecutive months between 1st April and 31st August; or</p> <p>(ii) Livestock must be excluded from 1st April</p>

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		<p>to 30th June and grazing in the period from 1st July to 30th September must not exceed 0.3 livestock units per hectare; or</p> <p>(iii) Where the particular environmental interest of the site would not be met by the approach in either paragraph (i) or (ii) above, a livestock management and grazing regime must be set out in a grazing plan to be agreed with the Scottish Ministers;</p> <p>(b) The environmental audit must include a statement outlining the method of control of rank vegetation growth;</p> <p>(c) Grazing or mowing must be carried out in accordance with a plan agreed with the Scottish Ministers; and</p> <p>(d) No supplementary feeding may occur on the site.</p>
<p><b>12.</b> Management of lowland raised bogs.</p>	<p>An area of lowland raised bog – an isolated peat deposit over 1 metre thick that is surrounded by non-peat soils.</p>	<p>A management plan must be prepared which may include the following requirements, as appropriate–</p> <p>a. The blocking of existing ditches at intervals so</p>

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		<ul style="list-style-type: none"> <li>as to raise or maintain the water table at or just below the surface of the vegetation (to prevent flooding of sites);</li> <li>b. The clearing of scrub and prevention of re colonisation;</li> <li>c. An agreement not to graze with cattle at any time;</li> <li>d. An agreement to exclude other livestock from 1st November to 28th February;</li> <li>e. An agreement not to stock at over 0.05 livestock units per hectare except with the prior written agreement of the Scottish Ministers;</li> <li>f. An agreement not to undertake any supplementary feeding on the site;</li> <li>g. An agreement that no peat cutting will be carried out without the prior written agreement of the Scottish Ministers; and</li> <li>h. An agreement that no muirburn will be carried out on the site.</li> </ul>
<b>13.</b> Creation management of wetland.	and Eligible arable land or improved grassland where the raised water levels resulting from creation of wetland would not adversely affect other land or cause the erosion of river banks or be liable to cause damage to archaeology.	<ul style="list-style-type: none"> <li>(a) The site must be managed to ensure that it is normally saturated with water for a significant proportion of the year;</li> <li>(b) The site must not be mown or grazed for 3 consecutive months between 15th April and 15th August, after which rank growth must be controlled. On fertile sites, where</li> </ul>

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		<p>practicable, mowing, with disposal of cuttings may be allowed between these dates with the prior written agreement of the Scottish Ministers;</p> <p>(c) Fertiliser including slurry or farmyard manure must not be applied to the site;</p> <p>(d) Pesticides may be applied only with the prior written agreement of the Scottish Ministers; and</p> <p>(e) No supplementary feeding may occur on the site.</p>
<p>14. Management of water margin.</p>	<p>In-bye land which borders still water or a watercourse having a bed width of not less than 0.6 metres and which –</p> <p>a. in the case of a site bordering still water, has a minimum width of 12 metres and a maximum width of 24 metres;</p> <p>b. in the case of a site bordering a watercourse with a bed width of less than 1.2 metres, has a minimum continuous width of 5 times the bed width of the watercourse, a minimum overall width of 6 metres and a maximum width of 12 metres; and</p> <p>c. in the case of a site bordering a watercourse with a bed width equal to or greater than 1.2 metres, has a minimum width of 6 metres and a maximum width of 12 metres on any one side.</p>	<p>a. Livestock must normally be excluded. Exceptionally livestock grazing at no more than 0.6 livestock units per hectare may be permitted in September and October with the prior written agreement of the Scottish Ministers;</p> <p>b. Where trees exist or are to be planted within a water margin, care must be taken to ensure that there will be no excessive shading of the water;</p> <p>c. The site must be maintained by the control of statutory weeds, giant hogweed and Japanese knotweed and, as the case may be, by clearing the watercourse of any obstacle;</p> <p>d. Fertiliser including slurry or farmyard manure must not be applied to the site;</p>

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		<ul style="list-style-type: none"> <li>e. Pesticides may be applied with the prior written agreement of the Scottish Ministers;</li> <li>f. Mowing of the site may be permitted with the prior written agreement of the Scottish Ministers and where necessary to control rank vegetation of low environmental value; and</li> <li>g. No supplementary feeding may occur on the site.</li> </ul>
<p><b>15.</b> Management of flood plain.</p>	<p>A site that forms all or part of a flood plain where–</p> <ul style="list-style-type: none"> <li>a. part or parts of the flood plain are included in the agri-environment undertaking as the site of another management activity; and</li> <li>b. the flooding of the site would not adversely affect other agricultural land.</li> </ul>	<ul style="list-style-type: none"> <li>(a) The natural flooding of the land must not be hindered;</li> <li>(b) Cultivation must not be carried out within 12 mean metres of the water’s edge (mean summer water level); and</li> <li>(c) Additional management specific to each site must be agreed with the Scottish Ministers.</li> </ul>
<p><b>16.</b> Moorland management.</p>	<p>A distinct block of moorland over which it is practical to implement a management programme.</p>	<p>To carry out a suite of additional management practices as laid out in a moorland management plan, including shepherding, stock management and feeding practices to benefit the stated environmental interest.</p>
<p><b>17.</b> Stock disposal.</p>	<p>Moorland which is of environmental interest and would benefit from a reduced stocking density beyond the reduction required to rectify an overgrazing problem identified under the livestock subsidy schemes.</p>	<ul style="list-style-type: none"> <li>(a) The requirements of the moorland management plan must be followed;</li> <li>(b) An agreed number of ewes must be removed from the site. Ewe numbers in the IACS business must be reduced by at least the</li> </ul>

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		<p>number of ewes removed from the site in accordance with the moorland management plan and must not be increased on that site for the relevant period; and</p> <p>(c) The agreed number of ewes to be removed must not be more than a number equivalent to 250 hectares of moorland. For the purposes of the scheme, the removal of one ewe is deemed to benefit 0.8 hectare of moorland.</p>
<p><b>18.</b> Muirburn and heather swiping.</p>	<p>Moorland identified in a moorland management plan as appropriate for muirburn or a swiping programme.</p>	<p>All muirburn must be undertaken in accordance with guidance approved by the Scottish Ministers.</p>
<p><b>19.</b> Bracken eradication programme for moorland.</p>	<p>Moorland of environmental interest and identified in the moorland management plan as bracken invaded.</p>	<p>A systematic programme of treatment and follow-up must be carried out, where necessary using an approved herbicide, in accordance with a bracken eradication programme laid out in an approved BEP management plan.</p> <p>a. In year one, a detailed BEP management plan must be prepared that incorporates a map drawn to a scale of 1:10000 showing the extent of the invasion, the areas of bracken to be cleared over the life-time of the scheme plan, an estimate of the percentage cover and frond density of the bracken within each area at full frond stage (mid/</p>

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		<p>late June on the west coast to early August in the eastern Borders) and the location of any sensitive species and habitats with appropriate buffer zones to ensure their conservation. Where cutting is to be the means of control no buffer zones are required but the map must show any areas with sensitive species and habitats and where birds are known to nest on the ground;</p> <p>b. As soon as the detailed BEP management plan has been prepared the applicant or contractor must complete and submit the standard multi-agency application form (with a copy of the BEP management plan scale map showing the area(s) to be treated) to the Scottish Ministers, the Scottish Environment Protection Agency, Scottish Natural Heritage and the Local Authority environmental services department. The consultees must then be allowed a minimum of 15 working days to consider and respond to the application for consent;</p> <p>c. The applicant must then submit the letters of consent and the final version of the BEP management plan to the Scottish Ministers as part of their claim for the first year's BEP management payment;</p> <p>d. In year two (or exceptionally in year one</p>

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		<p>if all the requirements detailed in paragraphs (a), (b) and (c) above have been met), the applicant or contractor must carry out primary treatment involving the treatment of dense bracken with an approved herbicide using an appropriate method or by cutting twice during the growing season. It is the applicant's responsibility to ensure that the required prior notice is given to all appropriate consultees in advance of any aerial spraying and that the contractor is provided with a copy of the map to ensure that the treatment is carried out in accordance with the BEP management plan; and</p> <p>e. Follow-up action may be necessary involving repeated annual treatment to clear any bracken re-growth. Where chemical control is used this normally requires a spot-treatment approach. Where cutting is the means of control, the programme of twice yearly treatments must continue for the duration of the BEP management plan.</p> <p>(a) On bare land the strip must be established by sowing a suitable mix of grass seed;</p> <p>(b) Fertiliser, slurry or farmyard manure must not be applied to the strips;</p>
<p><b>20.</b> Management of grass margin or beetlebank in arable fields.</p>	<p>Land forming a strip between 1.5 metres and 6 metres in width around or across arable fields.</p>	

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		<ul style="list-style-type: none"> <li>(c) Scrub control and the use of pesticides is permitted only with the prior written agreement of the Scottish Ministers;</li> <li>(d) A sterile strip up to 0.5 metres in width may be created and maintained by rotovation and herbicide along the inner edge of the grass margin to provide young birds with an area on which to dry out and also to act as a buffer preventing the spread of weeds from the grass margin into the crop;</li> <li>(e) Grazing of the grass margin or beetlebank after harvest is permitted provided the average height of vegetation in the strip is not taken below 100 millimetres; and</li> <li>(f) The transfer of a beetlebank or grass margin to another field may only be carried out once during the five year cycle of the scheme.</li> </ul>
<p><b>21.</b> Management conservation headlands.</p>	<p>of Headlands with a minimum width of 6 metres around arable fields on which cereal, linseed, oilseed or protein crops are being grown. Sites adjoining fields where the cereal is to be harvested for arable silage before the grain is ripe are not eligible.</p>	<ul style="list-style-type: none"> <li>(a) Herbicides and insecticides may be applied to the headlands only with the prior written agreement of the Scottish Ministers; and</li> <li>(b) To receive the Premium Payment there must be no</li> </ul>

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22. Management extended hedges.	of A strip of arable or improved grassland situated alongside an existing or newly created hedge.	<p>application of nitrogenous fertiliser to the headland.</p> <p>(a) All livestock must be excluded and no arable cultivation may be carried out within a strip extending to at least 3 metres and up to 6 metres from the centre line of the hedge;</p> <p>(b) When the hedge is trimmed it must not be trimmed again for at least three years. Hedges may only be trimmed between 1st December and 1st March;</p> <p>(c) The grass in the strip may be cut only with the prior written agreement of the Scottish Ministers;</p> <p>(d) Fertiliser, slurry or farmyard manure must not be applied to the site;</p> <p>(e) Pesticides may be applied only with the prior written agreement of the Scottish Ministers;</p> <p>(f) The creation of an extended hedge must be undertaken at the relevant time during the first year of participation in the scheme and must be maintained and managed for a period of not less than five years; and</p> <p>(g) Where only one side of the hedgerow</p>

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		is managed under this prescription, for example, a roadside hedge, the other side must be trimmed no more frequently than once a year and only between 1st December and 1st March.
<b>23.</b> Management hedgerows.	of Established or beaten up hedge.	<p>(a) Any gaps in the hedgerow must be filled by coppicing, laying or planting;</p> <p>(b) It must be trimmed no more frequently than every third year. Hedges may only be trimmed between 1st December and 1st March;</p> <p>(c) Pesticides must not be applied to the bottom of an established hedge. Spot treatment of weeds within 1 metre of any new hedge planting may be carried out using an approved herbicide but only with the prior written agreement of the Scottish Ministers;</p> <p>(d) The hedge bottom must not be mown;</p> <p>(e) Where a fence is required, it should be sited at least 1 metre from the centre line of the hedge; and</p> <p>(f) Both sides of a hedgerow require to be managed under the management of hedgerows option, i.e. a 2 metre strip</p>

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		will be managed 1 metre on either side of the centre line.
<b>24.</b> Introduction or retention of extensive cropping.	A site comprising arable land or improved grassland in the Less Favoured Areas which does not exceed 4 hectares and subject to a maximum area per undertaking of 8 hectares.	<p>(a) (i) Ploughing, cultivation and the spreading of fertiliser may only take place between 28th February and 15th May (or such other date as may be specified under the Arable Area Payments Regulations 1996(<b>13</b>)). Exceptionally, for root crops, cultivation may be carried out after 15th May. Any nests located must be marked and avoided; or</p> <p>(ii) If fodder rape or a similar crop is grown, cultivation may take place later in the year to establish the crop. Following cropping the area must not be ploughed or cultivated before 31st May in the following year;</p> <p>(b) Pesticides may be applied only with the prior written agreement of the</p>

(13) S.I.1996/3142 to which there are amendments not relevant to these Regulations.

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		<p>Scottish Ministers. The maximum allowance of compound fertiliser is 250 kilogrammes per hectare per annum; and</p> <p>(c) Premium Payment The management regime outlined at paragraph (a) or (b) above must be applied on the same site for a period of at least three years. In the final year of this arable rotation the cereal crop must be undersown with grass. The undersown crop will be subject to the usual management which must be maintained throughout the following season. If rolling of the grass crop is necessary, this must be carried out before 15th March. The undersown crop may be grazed or cut for hay or silage.</p>
<p>25. Management of cropped machair.</p>	<p>Previously cropped machair which is brought into the required crop/fallow rotation in the first, second or third year</p>	<p>(a) The site must be included in an arable rotation, comprise at least 15% of the</p>

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<i>Column 1 Management activity</i>	<i>Column 2 Site requirements</i>	<i>Column 3 Management requirements</i>
	of participation in the scheme by the sowing of a spring crop and has been subject to cultivation within the last 10 years.	<p>ploughable area of the machair and be sown to an arable crop or left fallow;</p> <p>(b) After the arable crop has been harvested, the site must be left fallow to revert to natural grassland for a minimum of two and a maximum of three years;</p> <p>(c) Ploughing and cultivation may only take place between 28th February and 15th May;</p> <p>(d) Ploughing depth must not exceed 100 millimetres;</p> <p>(e) Pesticides may be applied only with the prior written agreement of the Scottish Ministers; and</p> <p>(f) Seaweed and farmyard manure may be applied in accordance with traditional practice.</p>
<b>26. Unharvested crops.</b>	Arable or improved grassland in plots of up to 1 hectare in size and totalling no more than 4 hectares over the whole unit.	<p>(a) In spring a cereal-based mixture must be sown, including at least one legume species (other crops, e.g. linseed and brassicas may be included in the mixture) and the area must not be ploughed down until after 15th March the following year;</p> <p>(b) Alternatively, a mixture of at least two crops must be sown, one of which</p>

<i>Column 1</i> <i>Management activity</i>	<i>Column 2</i> <i>Site requirements</i>	<i>Column 3</i> <i>Management requirements</i>
		<p>must seed in the first year and one in the second. The area must be ploughed in after 15th March following the last seeding year; and</p> <p>(c) No pesticides may be applied.</p>
<p>27. Management of scrub (including tall herb communities).</p>	<p>Grazed land with suppressed herb scrub or tall herb communities.</p>	<p>(a) Grazing is not permitted except with the prior written agreement of the Scottish Ministers. Such agreement will only be given in circumstances which encourage the regeneration of woodland or understorey and is not likely to be given more than once every three years;</p> <p>(b) Rhododendron growth must be controlled; and</p> <p>(c) The cutting of understorey vegetation must be avoided.</p>
<p>28. Management of native or semi natural woodland.</p>	<p>Existing native or semi natural woodland (where Forestry Commission assistance is not appropriate to the site).</p>	<p>(a) Grazing is not permitted except with the prior written agreement of the Scottish Ministers. Such agreement will only be given in circumstances which encourage the regeneration of woodland or understorey and is not likely to be given more than once every three years;</p> <p>(b) Standing dead timber must not be felled</p>

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<i>Column 1</i> <i>Management activity</i>	<i>Column 2</i> <i>Site requirements</i>	<i>Column 3</i> <i>Management requirements</i>
		and dead timber must be left in the woodland;
		(c) Individual young trees must be provided with tree shelters where necessary;
		(d) Rhododendron growth must be controlled; and
		(e) Non-native tree species must be removed where these are detrimental to the character of the woodland and it is practical to do so. Any regrowth from the stumps must be suitably controlled in future years.
29. Management of a site of archaeological or historic interest.	Land containing a site of archaeological or historic interest.	(a) The management of the site must be agreed in advance with the Scottish Ministers and may include, as appropriate, controls over grazing, the cutting and removal of trees scrub and woody plants, the repair of erosion damage, the destruction and subsequent control of rabbits, the establishment of unploughed buffer zones, the realignment of fences or tracks, the re siting of hard standings or feeding sites and the restoration of and care for old orchard trees; or

<i>Column 1</i> <i>Management activity</i>	<i>Column 2</i> <i>Site requirements</i>	<i>Column 3</i> <i>Management requirements</i>
		(b) For areas containing archaeological sites revealed only by crop marks, the site with a minimum 10 metre buffer zone beyond the visible remains must be taken out of cropping and sown to grass. The management of the site must be agreed in advance with the Scottish Ministers. When establishing the sward, the ploughing depth must not exceed 100 millimetres.
<b>30.</b> Conservation management plan with special measures for small units.	Units up to 10 hectares of in bye on entry to the scheme and any apportionments but excluding any share in the common grazings.	Implementation of a detailed conservation management plan for the whole unit (i.e. entire in bye and any apportionments). The plan must— <ol style="list-style-type: none"> <li>a. set out clear environmental objectives;</li> <li>b. explain the management to be undertaken to achieve these objectives by addressing all areas of activity on the unit (i.e. grazing management, winter feed production, cropping, stock management, management of special habitats/features etc., including a Biodiversity Action Plan habitats and species and pollution control); and</li> <li>c. To qualify for the Premium Payment the application must be one of at least four current applications to adopt this option from the same crofting community.</li> </ol>

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<i>Column 1 Management activity</i>	<i>Column 2 Site requirements</i>	<i>Column 3 Management requirements</i>
<b>31.</b> Retention or introduction of cattle of native or traditional breed(s).	Units up to 10 hectares on entry to the scheme together with any apportionments but excluding any share in the common grazings. The unit must be participating in the management prescription, conservation management plan with special measures for small units.	<p>(a) The unit must support two or more breeding cows of traditional or native breed(s) on entry into the scheme and continue to do so for the lifetime of the agreement;</p> <p>(b) Premium Payment Where no breeding cows are present or the existing herd has only one or no dams of either purebred or first cross native or traditional stock, two or more breeding cows of traditional or native breed(s) must be run on the unit by the end of the first plan year;</p> <p>(c) The number of sheep on the unit must be reduced to ensure no increase in overall stocking density.</p>

## SCHEDULE 3

Regulation 3(3)(b)

## CAPITAL ACTIVITIES

<i>Column 1 Capital activity</i>	<i>Column 2 Requirements</i>
<b>1.</b> Bracken eradication – primary treatment is required in the first or second year of a bracken eradication programme (BEP) on any area of	(a) Primary treatment by chemical means must be carried out at the full frond stage in the second (or exceptionally

(13) S.I.1996/3142 to which there are amendments not relevant to these Regulations.

<i>Column 1</i> <i>Capital activity</i>	<i>Column 2</i> <i>Requirements</i>
land identified in a BEP management plan, with Scottish Natural Heritage approved map.	<p>first) year of a five year BEP by application of herbicide approved by the Scottish Ministers for this purpose;</p> <p>(b) Primary treatment by mechanical means shall be by cutting twice during the first year of a five year BEP. If cutting is the method adopted, the programme of twice yearly treatments shall continue for the duration of the BEP; and</p> <p>(c) Aerial spraying may be carried out only with the prior written agreement of Scottish Natural Heritage, the Scottish Environment Protection Agency and any other appropriate consultees having regard to required periods of notice.</p>
2. Rhododendron control.	Rhododendron control must be carried out by cutting or mechanical destruction.
<p>3. Erection of–</p> <p>(a) a stock fence;</p> <p>(b) gate and posts;</p> <p>(c) a single stile; or</p> <p>(d) a double stile.</p>	<p>(a) The construction and all materials must conform to the appropriate British Standards;</p> <p>(b) Except as otherwise provided, fence posts must be placed at intervals of no more than 3.5 metres or 12 metres where high tensile wire and droppers are used;</p> <p>(c) Except as otherwise provided, a fence must have a minimum of 6 line wires or 2 line wires and woven wire netting; and</p> <p>(d) Where fences are erected to enhance hedgerows they must be sited at least 1 metre from the centre line of the hedge.</p>
(e) Conversion of a stock fence to a deer fence.	The conversion of an existing stock fence to a deer fence must have new strainers erected and full length stobs driven in every 12 metres and droppers on the top of the fence every 2 metres as well as the existing stobs.
(f) Erection of a scare or temporary fence or rabbit proof netting.	<p>(a) A scare fence must consist of a minimum of 2 line wires with post at intervals of not more than 6 metres;</p> <p>(b) Rabbit proofing shall be carried out with galvanised wire netting. The netting must not be less than</p>

<i>Column 1 Capital activity</i>	<i>Column 2 Requirements</i>
	<p>1.05 metres wide British Standards designation 18 and have a mesh no larger than 31 millimetres. The top edge of the netting must not be less than 0.9 metres above ground level;</p> <p>(c) The netting shall be fastened to the fencing and the bottom edge of the netting must be buried in the ground to a suitable depth or turned outward and anchored; and</p> <p>(d) All gates in rabbit proofed fences must also be rabbit proofed.</p>
(g) Erection of a deer fence.	Deer fences must not be less than 1.8 metres high and have a minimum of 3 line wires and woven netting with stobs at no more than 3.5 metre intervals and 12 metre intervals with droppers every 2 metres for high tensile wire.
(h) Erection of a deer fence marked to reduce bird collision.	<p>(a) Erect fence in accordance with specification at 3(g); and</p> <p>(b) In areas where black grouse and capercaillie occur, to make the fence more visible and thus reduce the number of collisions, a double strip of orange barrier netting must be used, each strip being approximately 45 centimetres in width. Both strips must be secured with pig rings/ wire twists at intervals of circa. 30 centimetres on the upper and lower edges. The top of the upper strip should reach the top strand of the fence. The top of the lower strip must reach the middle strand of the fence. Alternative fence marking designs will require the prior written agreement of the Scottish Ministers.</p>
(i) Dismantling of a deer fence to remove a cause of bird death and injury by collision.	All wires must be removed from posts and coiled/rolled. The wire must be removed from the site and taken to a recognised disposal site. Posts may be left lying along the old fenceline.
(j) Erection of a post and rail fence as a tree guard or a water gate.	A post and rail fence erected as a tree guard or a water gate must have posts no more than 3 metres apart and 4 rails (70 millimetres x 20 millimetres).
(k) Erection of suitable fencing to trap blowing sand and in fill previously eroded dune areas.	Fencing must be fixed at right angles to the prevailing wind direction and constructed of posts and rails with posts no more than 3

<i>Column 1</i> <i>Capital activity</i>	<i>Column 2</i> <i>Requirements</i>
	metres apart and 4 rails (70 millimetres x 20 millimetres).
4. Building or restoration of traditional drystone or flagstone dykes or walls.	Drystone or flagstone dykes or walls must be rebuilt with material traditional to the locality and to a standard normally found there.
5. Native species tree planting on a site no more than 0.25 hectare and including individual trees in hedgerows and along water margins or around the margin of a pond created or restored under the scheme.	<ul style="list-style-type: none"> <li>(a) Planting density must not exceed one tree per 10 square metres; and</li> <li>(b) Native species appropriate to the site must be planted.</li> </ul>
6. Installation of tree guards and stakes or self-supporting tree guards required to protect amenity or native species tree and hedge planting.	The tree guards and stakes or the self-supporting tree guards must be securely fixed to protect newly planted material from damage by rodents and grazing animals.
7. Planting of marram grass into areas threatened with erosion.	<ul style="list-style-type: none"> <li>(a) Transplants must be harvested from areas where marram is well established and there is little danger from erosion;</li> <li>(b) Plants must be established at a density of at least 9 plants per square metre; and</li> <li>(c) Planting must take place in late spring or autumn.</li> </ul>
8. Installation of a water trough required because the management of a water margin will result in stock being denied access to traditional watering points.	<ul style="list-style-type: none"> <li>(a) The water trough must be a purpose made item and incorporate a ballcock to shut off the water supply; and</li> <li>(b) The trough must be permanently mounted on a durable base and a stopcock must be provided to control the water supply.</li> </ul>
9. Planting, replanting, coppicing or laying of a hedge to benefit a field boundary.	<ul style="list-style-type: none"> <li>(a) Where new hedging or gapping up of existing hedges is undertaken, plants must be established in a double row with a minimum of 6 plants per metre; and</li> <li>(b) A single species must not account for more than 75% of the plants established.</li> </ul>
10. Replanting, coppicing or laying of a hedge in a designed landscape.	<ul style="list-style-type: none"> <li>(a) Where planting or gapping is required, plants must be established in a double row with a minimum of 6 plants per metre; and</li> <li>(b) Species selected for the replanting or gapping up must already be present within the existing hedge.</li> </ul>

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<i>Column 1 Capital activity</i>	<i>Column 2 Requirements</i>
11. Creation or restoration of pond.	<ul style="list-style-type: none"> <li>(a) Any existing environmental interest must not be damaged;</li> <li>(b) The site must be capable of retaining water;</li> <li>(c) There must be an adequate water supply; and</li> <li>(d) Any outfall must be properly constructed. The last length of the buried pipe must be solid and frost-proof. The outfall must be at least 150 millimetres above normal discharge channel water level. The last 2 metres of buried pipe must be sealed with well rammed soil to avoid water flow outside the pipe. Headstones of cemented stones or bricks or purpose built installations will be needed to stabilise the bank and to keep the pipe in position. Drip stones or concrete aprons may be needed to prevent erosion of the discharge panel.</li> </ul>
12. Sowing of species rich grass.	<ul style="list-style-type: none"> <li>(a) Any existing sward should first be destroyed by cultivation or herbicide treatment; and</li> <li>(b) A mixture consisting of no more than 85% fined leafed or non-aggressive grasses and at least 15% mixed native flowers must be sown.</li> </ul>
<b>Additional items for designed landscapes only–</b>	
13. Restoration of parkland gate piers.	Parkland gate piers must be rebuilt with material traditional to the area and to a standard and design in keeping with the original design.
14. Amenity tree planting.	The trees must be standard or semi-standard. Exotic species may be planted, where appropriate.
15. Wooden post and rail fencing or metal tree guards to protect parkland trees.	Wooden post and three rail fencing must not be less than 1.1 metres high with rails of at least 38 millimetres x 87 millimetres sawn timber and posts not exceeding 1.8 metres apart. Metal guards must be 1.1 metres high and painted to match existing guards.
16. Restoration of drystone or flagstone or walls and ha-has.	Drystone or flagstone dykes or walls and ha-has must be rebuilt with materials and

<i>Column 1</i>	<i>Column 2</i>
<i>Capital activity</i>	<i>Requirements</i>
	workmanship in keeping with the original design.

## SCHEDULE 4

Regulation 8(1)

## RATES OF PAYMENT FOR ACTIVITIES

## PART I

## MANAGEMENT ACTIVITIES

<i>Column 1</i>	<i>Column 2</i>
<i>Activity</i>	<i>Rates of payment</i>
1.1. Extensive management of mown grassland for birds.	£150 per hectare.
1.2. Management of open grazed grasslands for birds.	£100 per hectare.
1.3. Extensive management of mown grassland for corncrakes.	£190 per hectare.
1.4. Management of early and late cover for corncrakes.	£160 per hectare.
1.5. Management of wet grassland waders.	£100 per hectare.
2.1. Management of species-rich grassland.	£100 per hectare.
2.2. Bracken eradication programme.	£25 per hectare for area of species-rich grassland identified for bracken eradication.
2.3. Creation and management of species-rich grassland.	£250 per hectare.
2.4. Management of coastal heath.	£80 per hectare.
2.5. Management of lowland heath.	£115 per hectare.
3.1. Management of wetland.	£100 per hectare.
3.2. Management of lowland raised bogs.	£70 per hectare.
3.3. Creation and management of wetland.	£250 per hectare.
3.4. Management of water margin.	£400 per hectare.
3.5. Management of flood plain.	£25 per hectare.
4.1. Moorland management.	£1 per hectare.
4.2. Stock disposal.	£45 per hectare of moorland.

<i>Column 1</i> <i>Activity</i>	<i>Column 2</i> <i>Rates of payment</i>
4.3. Muirburn and heather swiping.	£11 per hectare for area of moorland to be burned/swiped in 10 years.
4.4. Bracken eradication programme.	£25 per hectare for area of moorland identified for bracken eradication.
5.1. Management of grass margin or beetlebank in arable fields.	£736 per hectare.
5.2. Management of conservation headlands.	£70 per hectare or if nitrogenous fertiliser is not applied, a premium payment of £150 per hectare.
5.3. Management of extended hedges.	£500 per hectare.
5.4. Management of hedgerows.	£10,000 per hectare (£1 per square metre).
6.1. Introduction or retention of extensive cropping.	£120 per hectare or for application of management regime for period of three years or more on same site, £140 per hectare.
6.2. Management of cropped machair.	£200 per hectare or where cultivation is combined with the traditional application of seaweed and/or dung, £240 per hectare.
6.3. Unharvested crops.	£600 per hectare.
7.1. Management of scrub (including tall herb communities).	£55 per hectare.
7.2. Management of native or semi-natural woodland.	£100 per hectare.
8.1. Management of a site of archaeological or historic interest.	£80 per 0.25 hectare or part thereof up to 1.5 hectares and £80 per hectare thereafter or for crop-marked area sown to grass, £320 per hectare.
9.1. Conservation management plan with special measures for small units.	(a) £45 per hectare (in-bye); or (b) If a collective application covering a minimum of 4 crofts within the same crofting community, £55 per hectare (in-bye).
9.2. Retention or introduction of breeding cattle of native or traditional breed(s) in crofting areas (must be adopted in combination with prescription 9.1).	In addition to the aid payable under prescription 9.1– a. If the croft supports a herd of cattle of traditional or native breed(s) for the duration of participation in the scheme, £5 per hectare (in-bye); or b. If a herd of cattle of traditional or native breed(s) is introduced to the croft by the end of the first plan year and numbers of any sheep on the croft reduced to ensure no increase in overall stocking density, £290 per hectare (in-bye).

## PART II

### CAPITAL ACTIVITIES

<i>Column 1</i> <i>Activity</i>	<i>Column 2</i> <i>Rate of payment</i>
1. Bracken control – payment for primary treatment in year one or year two of a five year bracken eradication programme.	£120.00 per hectare.
2. Rhododendron control.	£250.00 per hectare.
3. Erection of–	
(a) a stock fence;	£3.00 per metre.
(b) gate and posts;	£25.00 per metre.
(c) a single stile; or	£25.00 each.
(d) a double stile.	£45.00 each.
(e) Conversion of a stock fence to a deer fence.	£2.50 per metre.
(f) Erection of a scare or temporary force or rabbit proof netting.	£1.50 per metre.
(g) Erection of a deer fence.	£6.00 per metre.
(h) Erection of a deer fence marked to reduce bird collision.	£6.50 per metre.
(i) Dismantling of a deer fence.	£0.75 per metre.
(j) Erection of a post and rail fence as a tree for guard tree or as a water gate.	£7.00 per metre.
(k) Erection of a suitable fence to trap blowing sand and in-fill previously eroded dune areas.	£7.00 per metre.
4. Building or restoration of traditional drystone or flagstone dykes or walls (including mortared walls).	£16.00 per square metre (total payments for dyking in any single application will be restricted to 35% of the total cost of the applicant's approved scheme proposals, excluding stock disposal).
5. Native species tree planting.	£1.50 each (small); and £7.50 each (standard).
(a) Tree guard and stake.	£1.10 each.
(b) Self supporting guard for hedge plants.	£0.50 each.
7. Planting of marram grass.	£4.00 per square metre.
(a) Water trough.	£200.00 per trough.
(b) Water pipe and trench.	£2.00 per metre.

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<i>Column 1</i> <i>Activity</i>	<i>Column 2</i> <i>Rate of payment</i>
9. Planting, replanting, coppicing or laying of hedge (minimum of 6 plants per metre).	£4.00 per metre.
10. Creation or restoration of a pond (maximum area of 2000 square metres).	£3.00 per square metre (up to 100 square metres); £1.50 per square metre (over 100 square metres).
11. Sowing of species – rich grassland.	£400.00 per hectare.
<b>Additional items for designed landscapes only</b>	
12. Restoration of parkland gates piers, and/or ha has.	£17.50 per square metre.
13. Amenity tree planting (exotic trees/ standard trees).	£9.00 each.
14. Post and rail fencing to protect parkland trees.	£9.00 per metre.

### PART III

#### RATES OF PAYMENT

<i>Column 1</i> <i>Activity</i>	<i>Column 2</i> <i>Rates of payment</i>
1. Environmental audit.	(a) Small unit (up to and including 10 hectares) 75% of actual cost with minimum payment of £150 and a maximum payment of £225; and (b) Other units (over 10 hectares) 50% of actual cost with a maximum payment of £300.
2. Moorland management plan.	£1 for every hectare of moorland included in the plan subject to a minimum payment of £50 and a maximum payment of £500. A maximum payment of £600 may be paid when the moorland management plan relates to common grazings.

### PART IV

#### LIMITS (APPLYING TO THE WHOLE IACS BUSINESS)

1. Conservation management.	The full management payment will be made for areas of in-bye land of up to 100 hectares managed under the scheme prescriptions and in addition for areas of up to 1000 hectares
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- of rough grazings (including moorland).  
For common grazings, the full management payment for prescriptions will be made on up to 2000 hectares. However, where these limits are exceeded all management payments for prescriptions relating to in bye land, rough grazings (including moorland), or common grazings, as applicable, will be scaled back to 80%.
2. Stock disposal. Stock disposal payments may be made on no more than 250 hectares of moorland (each ewe disposed of is deemed to benefit 0.8 hectare of moorland).
3. Capital items. Total payments for dyking in any single application will be restricted to 35% of the total cost of the applicant's approved scheme proposals (excluding stock disposal).

## SCHEDULE 5

Regulation 2(5)

### INTERPRETATION OF SCHEDULES

In Schedules 1 to 4 and Schedule 5–

“amenity woodland” means small-scale woodland planted and maintained primarily for the improvement of the landscape;

“arable land” means–

- (i) land on which an arable crop is growing or has been planted;
- (ii) land which is lying fallow as part of a normal crop rotation (including short term leys); or
- (iii) set-aside land and which has been land within the meaning of (i) and (ii).

“beetlebank” means a grass strip between 1.5 metres and 6 metres created in the margin of or through an arable field in order to allow beneficial insects to over-winter;

“breeding cow” means a cow that forms part of a herd either used for rearing calves for meat production or used for milk production and which has borne a calf;

“coastal heath” means land bordering the sea containing moorland or species-rich grassland affected by salt spray and exposure;

“conservation headland” means land with a minimum width of 6 metres around arable fields on which cereal, linseed, oilseed or protein crops are being grown;

“cropped machair” means sandy plains formed when calcareous shell-sand has been blown over glacial deposits and peat and which has been subject to cultivation within the last 10 years;

“designed landscape” means a garden or a landscape, including parkland policy grassland, which is included in a record, recognised by the Scottish Ministers, of existing historic gardens and designed landscapes;

“eligible land” means eligible land as defined in the Arable Area Payments Regulations 1996(14);

(14) S.I. 1996/3142, to which there are amendments not relevant to these Regulations.

“extensive cropping” means a specified arable rotation system without the use of pesticides (except to control statutory weeds) and restricted use of fertilisers in order to provide cover and feeding areas for birds;

“ewe” means a female sheep which is at least one year old on the 1st of January preceding the application for grant and which is kept in a breeding flock;

“floodplain” means eligible land adjacent to a watercourse which is subject to flooding in times of high water level;

“grass margin” means a grass strip between 1.5 metres and 6 metres created in the margin of or through an arable field in order to allow beneficial insects to over-winter;

“hedge” means a line of shrubs or trees which delineate field boundaries;

“herd” means two or more breeding cows of either pure-bred or first cross native or traditional breed;

“improved grassland” means either land used for grazing where over one third of the sward comprises, singly or in mixture, ryegrass, cocksfoot or timothy, or land that has been improved by management practices such as liming and top dressing, where there is not a significant presence of sensitive plant species indicative of native unimproved grassland;

“in-bye land” means that part of a farm not comprising the hill and rough grazings, the bulk of which is used for arable and grassland production;

“in-bye wet grassland” means pasture or meadow that is periodically inundated with water;

“Less Favoured Area” means land which is disadvantaged land or severely disadvantaged land as defined in the Hill Livestock (Compensatory Allowances) Regulations 1996<sup>(15)</sup>;

“lowland heath” means land generally found below 300 metres in altitude, usually characterised by plants such as heather, dwarf grass and cross based heath. Amongst the heather layer, there are generally scattered areas of trees and scrub;

“lowland raised bog” means an isolated peat deposit over one metre thick that is surrounded by non peat soils;

“machair” means sandy plains formed when calcareous shell-sand has been blown over glacial deposits and peat but does not include cropped machair;

“muirburn” has the same meaning as in section 39(1)(f) of the Hill Farming Act 1946<sup>(16)</sup>;

“native breeds” means any of the following breeds: Aberdeen Angus, Ayrshire, Belted Galloway, Galloway, Highland, Luing, Shetland or Shorthorn and first crosses of these native breeds;

“native woodland” means self-seeded woodland of native species or woodland derived from an originally naturally occurring woodland;

“overgrazing” means grazing land with livestock in such numbers as adversely to affect the growth, quality or species composition of vegetation (other than vegetation normally grazed to destruction) on that land to a significant degree;

“pesticides” means herbicides, insecticides or fungicides;

“poaching” means the trampling or treading of the ground surface by livestock resulting in permanent damage to the vegetation;

“reverted improved grassland” means land, previously improved by agricultural management operations which, from an agricultural viewpoint, has degenerated and is now showing significant presence of plant species indicative of unimproved grassland;

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<sup>(15)</sup> S.I. 1996/1500, amended by S.I. 1997/33.

<sup>(16)</sup> 1946 c. 73.

“rough grazings” means land containing semi-natural vegetation including heathland, heather moorland, bog and rough grassland used or suitable for use as grazing;

“scrub” means low growing woody vegetation of small trees and shrubs including linear scrub along field margins;

“semi-natural woodland” means native woodland which has been modified by human activity;

“small unit” means an agricultural business with no more than 10 hectares of in by land;

“species-rich grassland” means in-by land used for grazing or mowing which is not normally treated with mineral fertiliser or lime and does not constitute rough grazing, but which is floristically diverse;

“statutory weeds” means spear thistle (*circium vulgare*), creeping or field thistle (*circium arvense*), curled dock (*rumex crispus*), broad-leaved dock (*rumex obtusifolius*) and ragwort (*senecio jacobaea*);

“unimproved grassland” means in-by land used for grazing or mowing which is not normally treated with mineral fertiliser or lime and does not constitute either improved grassland or rough grazings;

“undergrazing” means grazing at a level where there is evidence of the annual growth not being fully utilised or scrub or coarse vegetation is becoming evident and such changes are detrimental to the environmental interest of the site;

“water margin” means an area of in-by land bordering an area of still or flowing water; and

“wetland” means in-by ground which is normally saturated with water for a significant proportion of the year.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement Commission Regulation (EC) No. 1750/1999 (O.J. No. L 214, 13.8.99, p.31) which prescribes detailed rules for the application of Council Regulation (EC) No. 1257/1999 (O.J. No. L 160, 26.6.99, p.80) on support for rural development from the European Agricultural Guidance and Guarantee Fund. The Regulations extend to Scotland only.

The Regulations provide for payments of aid to be made to any person who enters into an undertaking with the Scottish Ministers to comply with the general environmental requirements set out in Schedule 1 to the Regulations and to carry out, or as the case may be, to carry out and maintain, at least one of either the management activities set out in Schedule 2 or the capital activities set out in Schedule 3 (regulations 3 and 9).

The amount of aid payable in respect of an undertaking is calculated with reference to the activity to be undertaken (regulation 8). The rate of payment corresponding to each activity is specified in Schedule 4 to the Regulations.

The Scottish Ministers may also contribute to the costs incurred by an applicant in preparing a conservation audit and, as the case may be, a moorland management plan included in an application for aid (regulations 3(4) and 8(4)).

The Regulations also—

- (a) make provision as to the form and content of applications for aid (regulation 4);
- (b) make provision in respect of applications for aid from common grazings committees (regulation 5);
- (c) impose restrictions on the acceptance of applications for aid (regulation 6);
- (d) make provision in respect of the determination of applications for aid (regulation 7);
- (e) make provision in respect of claims and payment (regulation 9);
- (f) make provision in relation to a change of occupation of the land to which an undertaking relates (regulation 10);
- (g) confer powers of entry and inspection on authorised persons (regulation 11);
- (h) make provision in relation to breaches of undertakings (regulation 12);
- (i) make provision in relation to the withholding and recovery of aid (regulations 13 and 14);
- (j) make provision as to the recovery of interest (regulation 15);
- (k) provide that sums payable to Scottish Ministers shall be recoverable as a debt (regulation 16);
- (l) make provision for offences and penalties (regulation 17); and
- (m) make provision in respect of appeals (regulation 18).