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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 335**

**AGRICULTURE**

**The Rural Development Contracts (Rural Priorities)  
(Scotland) Amendment (No. 3) Regulations 2009**

*Made* - - - - 30th September 2009  
*Laid before the Scottish  
Parliament* - - - - 1st October 2009  
*Coming into force* - - 7th November 2009

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972<sup>(1)</sup> and all other powers enabling them to do so.

The Regulations make provision for a purpose mentioned in that section and it appears to the Scottish Ministers that it is expedient for the reference to Council Regulation (EC) No. 834/2007<sup>(2)</sup> on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs and the reference to Article 5 and Annex II to Council Regulation (EC) No. 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers<sup>(3)</sup> to be construed as a reference to that first mentioned Regulation, and to said Article and Annex, as amended from time to time.

**Citation and commencement**

1. These Regulations may be cited as the Rural Development Contracts (Rural Priorities) (Scotland) Amendment (No. 3) Regulations 2009 and come into force on 7th November 2009.

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(1) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3) and the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1). The functions conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006.

(2) O.J. No. L 18, 20.7.2007 p.1 as amended by Commission Regulation (EC) No. 889/2008 O.J. No. L 250, 18.9.2008 p.1 and Commission Regulation (EC) No. 1235/2008 O.J. No. L 334, 12.12.2008 p.25.

(3) O.J. No. L 30, 31.1.2009, p.16.

## **Amendment of the Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008**

2. The Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008(4) are amended in accordance with regulations 3 to 9.

### **Amendment to regulation 2**

3. In regulation 2 (interpretation)—

- (a) in the definition of “Commission Regulation 796/2004”, omit “Council Regulation (EC) No. 1782/2003” and insert “Council Regulation 73/2009”; and
- (b) omit the definition of “Council Regulation 1782/2003”; and at the appropriate place insert—

““Council Regulation 73/2009” means Council Regulation (EC) 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No. 1290/2005, (EC) No. 247/2006, (EC) No. 378/2007 and repealing Regulation (EC) No. 1782/2003”.

### **Amendment to regulation 7**

4. In regulation 7 (eligible land)—

- (a) in paragraph 7—(1)(a)(i) for “Article 22 of Council Regulation 1782/2003” insert “Article 19 of Council Regulation 73/2009”; and
- (b) in paragraph 7—(1)(a)(i) and (ii) and in paragraph (2) for “Article 20 of Council Regulation 1782/2003” substitute in each case “Article 17 of Council Regulation 73/2009”.

### **Amendment to regulation 9**

5. In regulation 9 (undertakings) in paragraph (5)(a) for “Article 4 of and Annex III to Council Regulation 1782/2003” substitute “Article 5 of and Annex II to Council Regulation 73/2009”.

### **Amendment to regulation 12**

6. In regulation 12 (claims and payment) in paragraph (3)(a)(iii) for “Article 20 of Council Regulation 1782/2003” substitute “Article 17 of Council Regulation 73/2009”.

### **Amendment to Schedule 1**

7. In Schedule 1 (interpretation of schedules)—

- (a) after the definition of “coastal heath” insert—

““community woodland” means woodland where at least 50% of the planting is located within 1 kilometre of the homes of 2000 or more people following liaison and consultation with the community and designed to provide opportunities for public access and recreation;

“control body” means an independent private third party organisation carrying out inspection and certification in organic production as in Article 2 of Council Regulation 834/2007;”;

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(4) S.S.I. 2008/100 as amended by S.S.I. 2008/233, S.S.I. 2009/1 and 2009/233.

- (b) for the definition of “Council Regulation 2092/91” substitute—
  - ““Council Regulation 834/2007” means Council Regulation (EC) No. 834/2007 on organic production and labelling of organic products and repealing Regulation (EEC) No. 2092/91<sup>(5)</sup> as amended by [Commission Regulation \(EC\) No. 889/2008](#)<sup>(6)</sup> laying down detailed rules for the implementation of Council Regulation (EC) No. 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control and [Commission Regulation \(EC\) No. 1235/2008](#)<sup>(7)</sup> laying down detailed rules for implementation of Council Regulation (EC) No. 834/2007 as regards the arrangements for imports of organic products from third countries;”;
- (c) in the definition “fully organic”, for “Council Regulation 2092/91” substitute “Council Regulation 834/2007”;
- (d) omit the definition “organic certification body”; and
- (e) for “an organic certification body” where this appears in the definitions “formally in conversion”, “full organic certification”, “fully organic” and “organic viability proposal”, substitute in each case “a control body”.

## **Amendment to Schedule 2**

- 8.** In Schedule 2 (rural priorities options)—
  - (a) in part 1 (option activities and eligibility conditions and rates of payment), omit the preamble;
  - (b) in option 15 (conversion to and maintenance of organic farming) in column 2;
    - (i) in element A (conversion of land to organic production) in paragraph (2) sub-paragraphs (c) and (h) for “an organic certification body” in each case substitute “a control body”;
    - (ii) in sub-paragraph (d) for “2092/91” substitute “834/2007”;
    - (iii) in sub-paragraph (i) for “organic certification body” in each case substitute “control body”;
    - (iv) in element B (conversion of land to organic production in phases), in paragraph (3) (a)(i) for “an organic certification body” substitute “a control body”;
    - (v) in element C (maintenance of organic production), in paragraph (2) in sub-paragraph (b) for “2092/91” substitute “834/2007” and in sub-paragraph (c) for “organic certification body” substitute in each case “control body”;
  - (c) in option 35 (creation and management of water margins and enhanced riparian buffer areas), in column 2, omit paragraph (2)<sup>(8)</sup>;
  - (d) in option 60 (woodland creation), in column 3, for “Supplementary payments of additional standard costs may be made” substitute “A supplementary payment of £1,500 per hectare may be made for a community woodland”;
  - (e) in option 62 (Woodland improvement grants) in column 3 after the paragraph “up to 100% of the standard costs for each item listed in Table D in Part 2” insert “Approved operations must be carried out and paid once during the 5 year contract period”<sup>(9)</sup>;

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<sup>(5)</sup> O.J. No. L 189, 20.7.2007 p.1.

<sup>(6)</sup> O.J. No. L 250, 18.9.2008 p.1.

<sup>(7)</sup> O.J. No. L 334, 12.12.2008 p.25.

<sup>(8)</sup> Paragraph 2 was substituted by [S.S.I. 2009/233](#).

<sup>(9)</sup> Option 62 was amended by [S.S.I. 2009/1](#).

- (f) in Part 2, in table B, in the first column (woodland type), for “Native woodland” substitute “Native and riparian woodland (planting)” and for “Naturally regenerated native woodland” substitute “Native and riparian woodland (natural regeneration)” and in the fourth column (Minimum stocking density per hectare at year 5 or when considered to be ‘established’) for “1600” substitute “1100”;
- (g) in Part 2 for Table C(10) substitute—

**“Table C**

<i>Woodland Type</i>	<i>Establishment £/ha *</i>	<i>Maintenance Standard Cost Rate £/ha/year **</i>
Productive conifer woodland (low cost)	1724	161.39
Productive conifer woodland (high cost)	2064	186.40
Productive broadleaved woodland	3317	229.79
Native and riparian (planting model)	2802	218.20
Native and riparian (natural regeneration model)	905	101.60
Mixed conifer/broadleaf woodland	3063	222.40

\* Paid as a lump sum on completion of planting.

\*\* Paid as an annual payment for a period of 5 years. Trees must be satisfactorily ‘established’ within 10 years of planting. Only payable where planting has occurred on agricultural land or abandoned agricultural land (i.e. at least 50% of a woodland type must be on agricultural land and/or abandoned agricultural land to be eligible for the maintenance payments).

The term ‘established’ means that trees must be present to the minimum stocking densities specified, healthy, and in a condition capable of continued growth given no further weeding but subject to normal ongoing maintenance operations such as protection from inappropriate grazing by wild or domestic animals.

An additional establishment premium for using genetically improved planting material is available as follows:

Categories of genetically improved planting material	£ per hectare
Sitka spruce seed orchard material that falls within the tested category in terms of regulation 4 of the Forest Reproductive Material (Great Britain) Regulations 2002(11)	50
Sitka spruce vegetatively propagated tested ‘family mixture’ material derived from controlled cross-pollination.	150”;

(10) Substituted by S.S.I. 2009/233.

(11) S.I. 2002/3026.

- (h) in part 2 in table D(12) (standard costs for forestry operations/capital items) at the item “Respace natural regeneration” in column 2 (standard cost) for “£500” substitute “£600”;
- (i) in part 2 in table D at the item “restructuring with Caledonian Scots pine” and “restructuring with diverse conifers” in column 2 for “£448” substitute “£411.64”;
- (j) in part 2 in table D at the item “Restructuring with mixed broadleaves”, in column 2 for “£1,002” substitute “£1,030.14”;
- (k) in part 2 in table D at the item “Restructuring with native broadleaves”, in column 2 for “£1,099” substitute “£1,100”;
- (l) in part 2 in table D in column 1 (item) before “Upgrading stock to deer fence” insert “New deer fence” and insert as the corresponding entry in column 2 “£7.25 per metre”.

### **Amendment to Schedule 3**

- 9.** In Schedule 3 (standard payment rates for capital items)—
- (a) in the preamble, for “an area related option” substitute “any of the rural priorities options numbered 15 to 57”;
  - (b) at the item “Manual eradication of rhododendron”, in column 2 (rate of payment), for “£3500” substitute “£3700”;
  - (c) in column 1 (capital item) for “Mechanised eradication of rhododendron with or without chemical follow up eradication” substitute “Mechanised (and/or chemical) eradication of rhododendron” and in the corresponding entry column 2 for “£850” substitute “£1750”;
  - (d) in column 1 omit the item “Chemical eradication of rhododendron” and in column 2 for this item omit “£850 per hectare of infested land”;
  - (e) at the item “Deer fence”, in column 2 for “£6.90” substitute “£7.25”.

### **Revocation**

**10.** Regulation 3(b) of The Rural Development Contracts (Rural Priorities) (Scotland) Amendment (No. 2) Regulations 2009(13) is revoked.

St Andrew’s House,  
Edinburgh  
30th September 2009

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

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(12) Substituted by S.S.I. 2009/1.

(13) S.S.I. 2009/233.

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## EXPLANATORY NOTE

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

These Regulations amend the Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008 (“the 2008 Regulations”) which introduce measures to supplement Council Regulation (EC) No. 1698/2005 (O.J. No. L 277, 21.10.2005, p.1) (“the Council Regulation”) laying down general rules governing Community support for rural development (financed by the European Agricultural Fund for Rural Development established by Council Regulation (EC) No. 1290/2005 (O.J. No. L 209, 11.8.2005, p.1)) and Commission Regulation (EC) Nos. 1974/2006 (O.J. No. L 368, 23.12.2006, p.15) and 1975/2006 (O.J. No. L 368, 23.12.2006, p.74) laying down detailed rules for the application of the Council Regulation.

The 2008 Regulations provide for the payment of aid to be made available by the Scottish Ministers from the Scotland Rural Development Programme 2007-13 to any person who enters into an undertaking with the Scottish Ministers to carry out, or as the case may be, carry out and maintain the activities relevant to at least one of the rural priorities options set out in Schedule 2, and where relevant one or more than one of the capital items set out in relation to a particular rural priorities option as set out in Schedule 3.

The Regulations amend the 2008 Regulations by inserting a new definition for Council Regulation (EC) 73/2009 which repealed Council Regulation (EC) 1782/2003 and makes relevant amendments (Regulations 3, 4, 5 and 6).

Further relevant amendments are made in respect of the repeal of Council Regulation (EEC) 2092/91 and its replacement by Council Regulation (EC) 834/2007 (Regulations 7 and 8).

New definitions of “community woodland” and “control body” added to Schedule 1 to the 2008 Regulations (Regulation 7).

Regulation 8 also amends option 35 in Schedule 2 of the 2008 Regulations to remove the requirement concerning buffer zones in a Nitrate Vulnerable Zone. It amends option 60 to add a new supplementary payment rate for community woodland and in option 62 makes minor textual amendments and clarifies timing of payments.

The Regulations amend Tables B, C and D in part 2 of Schedule 2 to the 2008 Regulations by making a change to woodland stocking density (Table B); adding an additional payment rate for new deer fence (Table D) and substituting a new Table C and further amending Table D to give effect to changes to standard cost rates for the establishment and maintenance of woodland.

No Regulatory Impact Assessment has been prepared for this instrument as it has no impact on the cost of business.