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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 106**

**The Rural Development Contracts (Rural Priorities)  
(Scotland) Amendment Regulations 2011**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Rural Development Contracts (Rural Priorities) (Scotland) Amendment Regulations 2011 and come into force on 15th March 2011.

(2) In these Regulations “the principal Regulations” means the Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008(1).

**Amendment to the principal Regulations**

2. The principal Regulations are amended in accordance with regulations 3 to 58.

**Amendment to regulation 2**

3. In regulation 2 (interpretation)—

(a) for the definition of “area related options” substitute—

““area related options” means those rural priorities options numbered 15 to 57, 60, 61 and 78 to 80 in Part 1 of Schedule 2;”;

(b) omit the definition of “Commission Regulation 796/2004”;

(c) for the definition of “Commission Regulation 1975/2006” substitute—

““Commission Regulation 1122/2009” means Commission Regulation (EC) No 1122/2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector(2);

“Commission Regulation 65/2011” means Commission Regulation (EU) No 65/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures(3);”;

(d) for the definition of “IACS Regulations” substitute—

““IACS Regulations” means the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2009(4)

(e) omit the definition of “IACS year”; and

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(1) S.S.I. 2008/100 as amended by S.S.I. 2008/233, 2009/1, 2009/233, 2009/335, 2009/411, 2010/87, 2010/222 and 2010/322.

(2) O.J. L 316, 2.12.2009, p.65 as amended by Commission Regulation (EU) No 146/2010, O.J. L 47, 24.2.2010, p. 1.

(3) O.J. L 25, 28.1.2011, p.8.

(4) S.I. 2009/3263.

- (f) in the definition of “single application”, for “Commission Regulation 796/2004” substitute “Commission Regulation 1122/2009”.

**Amendment to regulation 7**

4. In regulation 7 (eligible land), in paragraph (1)(a)(i) and in paragraph (2) for “Commission Regulation 796/2004” substitute “Commission Regulation 1122/2009”.

**Amendment to regulation 9**

5. In regulation 9 (undertakings)—
- (a) in paragraphs (5) and (6), for “and 74 to 77” substitute “, 79 and 80”; and
  - (b) in paragraph (6), after “an activity or activities under any of the” insert “following three”.

**Amendment to regulation 10**

6. In regulation 10 (restrictions on approval of applications and payment of aid), in paragraph (2) (c) for “Articles 18, 23 or 31 of Commission Regulation 1975/2006” substitute “Article 18, 21 or 30 of Commission Regulation 65/2011”.

**Amendment to regulation 12**

7. In regulation 12 (claims and payment)—
- (a) in paragraph (3)(a), omit “except those area related options numbered 74 to 77”;
  - (b) in paragraph (3)(a), for head (i) substitute—
    - “(i) be submitted in accordance with the deadline for single applications as specified in regulation 5 of the IACS Regulations in the calendar year in which the particular undertaking commences;”;
  - (c) in paragraph (3)(a)(ii) and (iii), for “Commission Regulation 796/2004” substitute “Commission Regulation 1122/2009”.

**Amendment to regulation 14**

8. In regulation 14 (powers of authorised persons) in paragraph (2)(d) for “Commission Regulation 1975/2996” substitute “Commission Regulation 65/2011”.

**Amendment to regulation 15**

9. In regulation 15 (breaches of undertakings etc.), in paragraph (1)(c) for “Commission Regulation 1975/2006” substitute “Commission Regulation 65/2011”.

**Amendment to regulation 16**

10. In regulation 16 (other cases in which recovery etc. powers apply), in sub-paragraph (e) for “Commission Regulation 1975/2006” substitute “Commission Regulation 65/2011”.

**Amendment to regulation 17**

11. In regulation 17 (powers of recovery etc. of the Scottish Ministers), in paragraph 4 for “Council Regulation 1975/2006” substitute “Commission Regulation 65/2011”.

## Amendment to Schedule 1

### 12. In Schedule 1 (interpretation of schedules)—

- (a) for the definition of “coastal heath” substitute—

““coastal heath” means land bordering the sea and containing heath or species-rich grassland, where salt spray and exposure affect the composition of species and the structure of vegetation;”;
- (b) in the definition of “fully organic” omit “and the Organic Standards Compendium”;
- (c) for the definition of “Less Favoured Area” substitute—

““Less Favoured Area” has the meaning as in regulation 2(1) of the Less Favoured Area Support Scheme (Scotland) Regulations 2010(5);”;
- (d) for the definition of “Nitrates Action Programme” substitute—

““Nitrates Action Programme” means the action programme set out in the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008(6);”;
- (e) in the definition of “organic production” omit “as read with any additional provisions as set out in the Organic Standards Compendium”;
- (f) omit the definition of “Organic Standards Compendium”;
- (g) for the definition of “rural settlement” substitute—

““rural settlement” means a settlement which has a population of less than 3000 according to the Scottish Executive Urban Rural Classifications 2003-2004, 2005-2006 or Scottish Government Urban Rural Classifications 2007-2008 or 2009-2010;”;
- (h) after the definition of “SEPA” insert—

““serpentine vegetation” means unimproved grassland with serpentine or other ultra-basic rocks, containing species which can tolerate the unusual soils derived from these rocks;”;
- (i) after the definition of “SPA” insert—

““special interest heath” means land containing heath in an SSSI Site or in a SAC or SPA or on a site which SNH has confirmed to be of particular local importance in accordance with programme guidance;”;

 and
- (j) after the definition of “wetland”, insert—

““winter keep” means the production of oats, barley, rye, bere, turnips, kale and hay;”.

## Amendment to Part 1 of Schedule 2

13. Part 1 (option, activities and eligibility conditions and rates of payment) of Schedule 2 (rural priorities options) is amended in accordance with regulations 14 to 54.

## Amendment to option 10 (improving the economic value of forests)

### 14. In option 10 (improving the economic value of forests), in column 2—

- (a) in paragraph (1) for sub-paragraph (a) substitute—

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(5) S.S.I. 2010/273 as amended by S.S.I. 2011/73.

(6) S.S.I. 2008/298, as amended by S.S.I. 2008/394 and 2009/447.

- “(a) has a forest holding of at least one hectare, which is managed in accordance with a forest management plan which is in compliance with the UK Forestry Standard and approved by the Forestry Commission Scotland;” and
- (b) in paragraph (1)(c) for head (iii) substitute—
  - “(iii) thinning to improve average stem quality;”.

**Amendment to option 15 (conversion to and maintenance of organic farming)**

- 15.** In option 15 (conversion to and maintenance of organic farming)—
- (a) under heading A (conversion of land to organic production) in paragraph 2(d) omit “and the Organic Standards Compendium”;
  - (b) under heading C (maintenance of organic production) in paragraph 2(b) omit “and the Organic Standards Compendium”; and
  - (c) for the entry in column 3 substitute—
    - “As set out in Table A in Part 2 of this Schedule”.

**Amendment to option 16 (wild bird seed mix/unharvested crop)**

- 16.** In option 16 (wild bird seed mix/unharvested crop), in column 2 for paragraph (3) substitute—
- “(3) For both options (a) and (b) in paragraph (2) above—
    - (a) plots must be on arable or improved grassland and maximum of 2 hectares in size;
    - (b) pesticides must not be applied except where the application is necessary to aid the establishment of the crop or with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species; and
    - (c) beneficiaries need not manage the same field each year, but must give details of the different fields and their locations and their areas in the application for aid. If, during the relevant period, a different rotation to that originally approved is agreed with the Scottish Ministers, the area upon which the annual management payment is calculated will be restricted to either the originally approved area or the revised area, whichever is smaller.”.

**Amendment to option 17 (management of mown grassland for wildlife)**

- 17.** In option 17 (management of mown grassland for wildlife), in column 2—
- (a) at the end of paragraph (2)(a), insert “; for beneficiaries in Shetland the exclusion period may start any time between 1st and 30th April and last for three months from the start date”;
  - (b) in paragraph (2)(e) omit “and herbicides may be applied to this strip only with the prior written agreement of the Scottish Ministers”;
  - (c) in paragraph (2)(f), after “strip” insert “except with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species”;
  - (d) at the end of paragraph (2)(f) omit “and” ; and
  - (e) in paragraph (2), after sub-paragraph (g), insert—
    - “; and

- (h) does not apply slurry or farmyard manure to the field from 1st March until 15th May, or until 1st June where later ground-nesting birds and young may be found.”.

**Amendment to option 18 (management of mown grassland for corn buntings)**

- 18.** In option 18 (management of mown grassland for corn buntings)—
- (a) in column 2, in paragraph (2) for sub-paragraph (c) substitute—
    - “(c) mows fields but mowing must be delayed until after—
      - (i) 24th July; in which case the rate of payment for Option 1 applies, or
      - (ii) 1st August where corncrakes are also present; in which case the rate of payment for Option 2 applies;”;
  - (b) in column 2, in paragraph (2)(f), after “strip” insert “except with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species”;
  - (c) in column 2, after paragraph (2), insert—
    - “(3) Beneficiaries need not manage the same field each year where winter keep production is rotated around grassland area, but must give details of the different fields and their locations and their areas in the application for aid. If, during the relevant period, a different rotation to that originally approved is agreed with the Scottish Ministers, the area upon which the annual management payment is calculated will be restricted to either the originally approved area or the revised area, whichever is smaller.”; and
  - (d) in column 3, for “£224.48 per hectare per year” substitute “Option 1 - £216 per hectare per year. Option 2 – £ 224.48 per hectare per year.”.

**Amendment to option 19 (management of mown grassland for corncrakes)**

- 19.** In option 19 (management of mown grassland for corncrakes)—
- (a) in column 1, after “corncrakes” insert “or chough”;
  - (b) in column 2, for paragraphs (2) and (3) substitute—
    - “(2) For the management of mown grassland for the benefit of corncrakes, a beneficiary is eligible for payment under this option on a grassland field on which an extensive crop of hay or silage will be grown if the beneficiary—
      - (a) is a land manager in the Argyll Islands, Skye, Small Isles, Western Isles, Orkney or parts of the north coast of the Scottish Mainland which support corncraque populations;
      - (b) carries out this option in combination with one of the following rural priorities options, which must be undertaken on directly adjacent land—
        - (i) Management of early and late cover for corncrakes;
        - (ii) Creation and management of early and late cover for corncrakes;
        - (iii) Management of grazed grassland for corncrakes; or
        - (iv) Wild bird seed mix/unharvested crop;
    - (c) excludes livestock from hay or silage fields from 15th May;
    - (d) does not roll, harrow or graze the field from 15th May until after it has been mown and marks and avoids ground nests which were present before 15th May;

- (e) provides suitable temporary cover for at least two weeks after the field has been mown to enable corncrakes to move into more permanent corncrake cover;
  - (f) makes the temporary cover—
    - (i) directly adjacent to permanent corncrake cover; and
    - (ii) at least 2 metres wide around the field boundary, except where the field is less than 40 metres wide where temporary cover may be provided on one side of the field only; and
  - (g) does not apply pesticides to the temporary cover.
- (3) For the management of mown grassland for the benefit of chough, a beneficiary is eligible for payment under this option for farm land on in-bye rotational grassland, permanent grassland and pastures dominated by a variety of grassland types that are maintained by seasonal or year round grazing if the beneficiary—
- (a) is a land manager in the Argyll Islands or in Wigtownshire where chough occur;
  - (b) provides areas suitable for chough to forage in during chick rearing and fledging periods by grazing pasture until 14th June and then excludes livestock from hay or silage fields from 15th June; and
  - (c) does not roll, harrow or graze the field from 15th June until after it has been mown, which must not be before 15th August, and marks and avoids ground nests which are present before 15th June.
- (4) For the management of mown grassland for the benefit of either corncrakes or chough, a beneficiary must—
- (a) cut the grassland fields after—
    - (i) 1st August in the case of corncrakes, in which case the rate of payment for Option 1 in column 3 applies;
    - (ii) 15th August, in which case the rate of payment for Option 2 in column 3 applies; or
    - (iii) 1st September in which case the rate of payment for Option 3 in column 3 applies;
  - (b) cut the hay and silage in a wildlife friendly manner in accordance with programme guidance;
  - (c) leave a strip of uncut grass 2 metres wide around the field boundary; and
  - (d) not apply pesticides to the 2 metre strip except with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species.
- (5) The same field need not be managed each year if winter keep production is rotated around grassland area. Details of the fields to be rotated in this way, their location and areas must be given in the application for aid. If, during the relevant period, a different rotation to that originally agreed is approved by the Scottish Ministers, the area upon which the annual management payment is calculated will be restricted to either the area originally approved or the revised area, whichever is smaller.”; and
- (c) for column 3, substitute—
- “For corncrakes—
  - Option 1 - £271 per hectare per year.
  - Option 2 - £381 per hectare per year.
  - Option 3 - £691 per hectare per year.

For chough—

Option 2 - £429 per hectare per year.

Option 3 - £691 per hectare per year.”.

**Amendment to option 21 (creation and management of early and late cover for corncrakes)**

**20.** In option 21 (creation and management of early and late cover for corncrakes), in column 2—

- (a) at the end of paragraph (2)(e), omit “and”; and
- (b) at end of paragraph (2)(f), insert—
  - “; and
  - (g) does not apply pesticides to the managed area except with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species.”.

**Amendment to option 22 (management of early and late cover for corncrakes)**

**21.** In option 22 (management of early and late cover for corncrakes), in column 2—

- (a) in paragraph (2), for “and parts of the North Sutherland and West Argyll coast” substitute “North Sutherland and West Argyll”;
- (b) at the end of paragraph (2)(d), omit “and”; and
- (c) at the end of paragraph (2)(e), insert—
  - “; and
  - (f) does not apply pesticides to the managed area except with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species.”.

**Amendment to option 23 (management of open grazed or wet grassland for wildlife)**

**22.** In option 23 (management of open grazed or wet grassland for wildlife), in column 2, for paragraph (2) substitute—

“(2) A beneficiary is eligible for payment under this option on in-bye grassland if the beneficiary either—

- (a) agrees a grazing plan with the Scottish Ministers that describes a livestock management and grazing regime, taking into account the preferences of individual target species, site conditions and farming operations; or
  - (b) excludes farm livestock for 6 consecutive weeks between 15th March and 15th June inclusive or restricts numbers to a maximum of 1 livestock unit per hectare during the whole period of three months.
- (3) The beneficiary must—
- (a) ensure the intensity of grazing is sufficiently low during the period of three months so that the nests of ground-nesting birds are not damaged;
  - (b) not harrow or roll from 1st April until 31st July inclusive;
  - (c) not apply artificial fertiliser to the site before 15th May and not apply farmyard manure and slurry from 1st March until 15th May inclusive;
  - (d) not apply pesticides except with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of

invasive non-native species and where land is wetland or bordering water, the beneficiary must also consult SEPA prior to the application of pesticides; and

(e) not top until after 31st July.

(4) Where this option seeks to benefit farmland waders, the area managed must extend to at least 3 hectares and be at least 30 metres from any line or group of trees or hedgerows.

(5) Where open grazed grassland is part of the normal rotation, the same field need not be managed each year if winter keep production is rotated around the grassland area. Details of the fields to be rotated in this way, their location and areas must be given in the application for aid. If, during the lifetime of the undertaking, a different rotation to that originally agreed is approved by the Scottish Ministers, the area upon which the annual management payment is calculated will be restricted to either the area originally approved or the revised area, whichever is smaller.”.

#### **Amendment to option 24 (mammal and bird control)**

**23.** In option 24 (mammal and bird control)—

- (a) in column 2, in paragraph (3)B after “SNH” insert “or, if the beneficiary is committed to provide food for hen harriers in the nest under option 25 (supplementary food provision for raptors), on a site within 2 km of a hen harrier nest”;
- (b) in column 2, in paragraph (3)(a), for head (ii) substitute—
  - “(ii) as support of the hen harriers’ element of the supplementary food provisions for raptors option only for the duration of that undertaking”; and
- (c) in column 3, at paragraph B, after “1 trap per hectare” insert “or per hen harrier nest site when used to support the hen harriers’ element of option 25”.

#### **Amendment to option 25 (supplementary food provision for raptors)**

**24.** In option 25 (supplementary food provision for raptors)—

- (a) in column 2, in paragraph (3), for sub-paragraph (a) substitute—
  - “(a) is a land manager of moorland which has breeding hen harriers;”;
- (b) in column 2, in paragraph (3)(c), for ““Substitute Feeding of Hen Harriers on Grouse Moors” (Moorland Working Group 1999)” substitute ““Diversionary Feeding of Hen Harriers on Grouse Moors” (Scottish Natural Heritage 2004)(7)”;
- (c) in column 2, at the end of paragraph (3)(g) insert—
  - “; and
  - (h) continues crow control on site.”; and
- (d) in column 3, for “A: £1,076 per nest per year. B. £32 per carcass.” substitute—

“A: £1,076 per nest per year and no more than one feeding site per five hectares.  
B: £32 per carcass up to eight carcasses per year and no more than one carcass per hectare.”

#### **Omission of option 26 (wardening for Golden Eagles)**

**25.** Omit the whole of option 26 (wardening for Golden Eagles).

(7) Diversionary Feeding of Hen Harriers on Grouse Moors was published by SNH and is available online at [www.snh.org.uk](http://www.snh.org.uk) or by contacting Great Glen House, Leachkin Road, Inverness, IV3 8NW.



**Amendment to option 27 (control of invasive non-native species)**

26. In option 27 (control of invasive non-native species), in column 2, in paragraph (8) for subparagraphs (i) and (ii) (where it occurs a second time) substitute—

- “(i) mechanised control – these methods may include the use of flails fitted on machinery and/or herbicide treatment on re-growth. A second application of herbicide must be applied when required; or
- (iii) chemical control of standing Rhododendron – this may include the use of stem injection or foliar application of herbicide to kill off established Rhododendron bushes. Follow-up applications of herbicides or hand pulling of seedlings must be undertaken to ensure there are no successful seedlings or sprouting bushes on site.”.

**Amendment to option 28 (management of species rich grassland)**

27. In option 28 (management of species rich grassland), in column 2, in paragraph (2) for subparagraphs (f) and (g) substitute—

- “(f) does not apply fertilisers, slurry, farmyard manure or lime;
- (g) does not apply pesticides except with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species; and
- (h) does not use the site for supplementary feeding.”.

**Amendment to option 30 (creation and management of species rich grassland)**

28. In option 30 (creation and management of species rich grassland)—

- (a) in column 2, for paragraphs (2) and (3), substitute—
  - “(2) There are two elements to this option—
    - A. for the benefit of wildlife;
    - B. for the benefit of bees, moths and butterflies.
  - (3) A beneficiary is eligible for payment under this option if the beneficiary—
    - (a) creates a new grassland sward from arable or improved grassland by—
      - (i) destroying any existing grassland cover and carrying out a programme agreed with the Scottish Ministers to establish a new sward. This may include measures to reduce the fertility of the soil and address weed problems; and
      - (ii) sowing the site with a low productivity grass and herb mix seed agreed with Scottish Ministers to create a new sward; or
    - (b) restores an existing semi-improved grassland sward by—
      - (i) creating a short sward through cutting or grazing;
      - (ii) creating 50% bare ground on each sward by light mechanical disturbance such as raking, harrowing or scarifying; and
      - (iii) sowing a low productivity grass and herb mix seed agreed with the Scottish Ministers on the bare patches.
  - (4) When destroying grassland cover on an archaeological cropmark site, ploughing and cultivation must not exceed 150 mm.
  - (5) There must be at least three indicator species of potential for restoration on grasslands.

(6) The beneficiary must agree with the Scottish Ministers a grazing plan setting out a livestock management and grazing regime.

(7) For element A, the beneficiary must ensure that the grass is at its longest in the summer and shorter in the spring and autumn.

(8) For element B—

(a) grazing levels between June and August must be light to maintain an uneven patchwork of short and tall vegetation between 5 and 25 cm with flowering heads;

(b) beneficiaries must leave at least 15% of the field uncut and must rotate this area annually; and

(c) the sward must not be cut before 15th August except in areas where Great Yellow Bumblebee is a priority where it must not be cut before 1st September.

(9) The beneficiary must sow a seed mixture of native grasses and wildflowers where at least 15% of the mixture by weight must be seed of herbs and up to 85% non-aggressive fine-leaved grasses.

(10) Seed of local origin must be used wherever possible.

(11) For element B at least half the herb seed by weight must consist of one or more of the following species: Red Clover, Tufted Vetch, Bird's foot Trefoil, Yellow Rattle, Meadow Vetchling, Selfheal and Common Knapweed; and must contain at least 2% Red Clover seeds.

(12) The beneficiary must not—

(a) apply fertiliser, slurry or farmyard manure to the site;

(b) apply pesticides to the site except with the prior written agreement of the Scottish Ministers for activities such as spot treatment for injurious weeds or control of invasive non-native species;

(c) carry out supplementary feeding on the site.”; and

(b) in column 3, for “year” insert “year or £245.56 per hectare per year on archaeological cropmark sites”.

#### **Amendment to option 31 (management of habitat mosaics)**

**29.** In option 31 (management of habitat mosaics), in column 2—

(a) in paragraph (2), for sub-paragraph (b) substitute—

“(b) does not apply fertilisers, slurry, farmyard manure or lime;” and

(b) at the end of paragraph (2)(c), insert—

“; and

(d) does not apply pesticides except with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species.”.

#### **Amendment to option 32 (management of wetland)**

**30.** In option 32 (management of wetland), in column 2, in paragraph (2)—

(a) for “including salt marsh” substitute “or on salt marsh”;

(b) for sub-paragraph (b) substitute—

“(b) does not apply fertiliser including slurry or farmyard manure to the site;”;

- (c) at the end of sub-paragraph (m), omit “and”; and
- (d) at the end of sub-paragraph (n), insert—
  - “; and
- (o) does not apply pesticides to the site except with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species.”.

**Amendment to option 33 (creation, restoration and management of wetland)**

**31.** In option 33 (creation, restoration and management of wetland), in column 2, in paragraph (3)

- (a) in sub-paragraph (i), omit “pesticides or”; and
- (b) at the end of sub-paragraph (v), insert—
  - “; and
- (vi) not apply pesticides except in consultation with SEPA and with the prior written agreement of the Scottish Ministers for activities such as spot-treatment of injurious weeds or control of invasive non-native species.”.

**Amendment to option 34 (management/restoration of lowland raised bogs)**

**32.** In option 34 (management/restoration of lowland raised bogs), in column 2, in paragraph (2) (c)—

- (a) for head (iv) substitute—
  - “(iv) the use of fertiliser including manure, or pesticides except for herbicides;”;
- (b) at the end of head (viii), omit “and”; and
- (c) after head (ix) insert—
  - “and
- (x) the application of herbicides without consultation with SEPA and without the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native plants;”.

**Amendment to option 35 (creation and management of water margins and enhanced riparian buffer areas)**

**33.** In option 35 (creation and management of water margins and enhanced riparian buffer areas), in column 2—

- (a) in paragraph (3), omit “with a bed width of at least 0.6 metres”;
- (b) in paragraph (3)(b), for “a maximum width of 12 metres” substitute “has a width of between 3 and 12 metres on any side”;
- (c) in paragraph (4), for sub-paragraph (b) substitute—
  - “(b) enhance biodiversity interest by—
    - (i) on sites with species-rich grassland, carrying out very occasional, light grazing to maintain a sward at a range of heights, avoiding poaching the ground, and controlling rank, tussocky growth and maintaining close, even sward by grazing in late summer/early autumn to reduce the sward height to between 10 and 15 cm;

- (ii) on all other sites, carrying out a grazing regime in accordance with programme guidance;”;
- (d) in paragraph (4)(c), at the beginning insert “on a site which is identified as a high priority in a diffuse pollution mitigation plan,”;
- (e) in paragraph (4), for sub-paragraph (iii) substitute—
  - “(iii) not apply lime or fertilisers, including slurry or farmyard manure, or pesticides in or near the water margin except for herbicides which may be applied in consultation with SEPA and with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species;”;
- (f) omit paragraph (4)(iv).

#### **Amendment to option 37 (management of buffer areas for fens and lowland raised bogs)**

- 34.** In option 37 (management of buffer areas for fens and lowland raised bogs), in column 2—
- (a) in paragraph (3)(e), omit “pesticides,”;
  - (b) in paragraph (3)(f) omit “and”;
  - (c) at the end of paragraph (3)(g) insert—
    - “; and
  - (h) does not apply pesticides except in consultation with SEPA and with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species.”.

#### **Amendment to option 38 (management of coastal or serpentine heath)**

- 35.** In option 38 (management of coastal or serpentine heath)—
- (a) in column 1, for “Management of coastal or serpentine heath” substitute “Management of coastal heath, serpentine vegetation or special interest heath”; and
  - (b) in column 2, for paragraphs (2) and (3) substitute—
    - “(2) A beneficiary is eligible for payment under this option on coastal heath, serpentine vegetation or special interest heath if the beneficiary—
      - (a) on land dominated by heath vegetation, manages grazing levels to enable plants to flower and set seed in the summer. The area must be sufficiently grazed over the autumn to remove rank growth and lightly crop dwarf shrubs; and
      - (b) on land dominated by grass vegetation, manages grazing levels in accordance with programme guidance to ensure the sward is at its longest in the summer to enable plants to flower and set seed and is shorter in the spring and autumn to allow grassland species to germinate and to remove rank growth.
    - (3) For all heath types but subject to paragraph (4), the beneficiary must—
      - (a) exclude farm livestock from the area from 1st April until 31st August inclusive;
      - (b) graze livestock on the site from 1st September until 30th November inclusive at a level not exceeding 1.2 livestock units per hectare during this period; and
      - (c) where appropriate in accordance with programme guidance, ensure that, if the site is grazed from 1st December until 31st March inclusive, the grazing level does not exceed 0.15 livestock units per hectare during this period except with the prior written agreement of the Scottish Ministers.

(4) Where the requirements in paragraph (3) would not reflect the specific biodiversity requirements of the site in the opinion of the Scottish Ministers at the time of the application, the beneficiary must set out in a grazing plan, to be agreed with the Scottish Ministers, a farm livestock management and grazing regime. The grazing plan may not be varied in any year of the 5 year commitment except with the prior written agreement of the Scottish Ministers.

(5) A grazing plan is obligatory when management is for Scottish primrose.

(6) For all sites, a beneficiary must—

- (a) adjust grazing management to ensure coarser grasses do not shade out desired plant species;
- (b) not provide supplementary feeding on the site without the prior written agreement of the Scottish Ministers;
- (c) not burn the site without the prior written agreement of the Scottish Ministers;
- (d) not apply fertiliser, lime, slurry or farmyard manure to the site; and
- (e) not apply pesticides to the site except for herbicides with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species.

(7) Where a site occupies only a small part or parts of the field or management unit, the whole field or management unit may be managed under the provisions of this option where the Scottish Ministers consider this would be beneficial.

(8) Extensive mosaics of heath and grassland are not eligible.”.

#### **Amendment to option 41 (management of moorland grazing)**

**36.** In option 41 (management of moorland grazing), in column 2, in paragraph (2)(b), for “proposed changes in” substitute “appropriate proposals for”.

#### **Amendment to option 43 (moorland stock disposal)**

**37.** In option 43 (moorland stock disposal), in column 3, after “year” insert “but only £15.71 per hectare per year if the beneficiary receives payment in accordance with commitments under option 41 or option 42 in this Schedule for the same land”.

#### **Amendment to option 47 (management of hedgerows)**

**38.** In option 47 (management of hedgerows), in column 2—

- (a) in paragraph (2)(b), after “in any one year” insert “with a different section of the hedge cut each year so that the hedge is cut in rotation”;
- (b) in paragraph (2)(f), after “established hedge” insert “except with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive, non-native species, and where the hedge is next to a watercourse, the beneficiary must also consult SEPA before applying pesticides”;
- (c) in paragraph (2), for sub-paragraph (g) substitute—
  - “(g) uses, following consultation with SEPA where the hedge is next to a watercourse, an approved herbicide for any spot treatment of weeds within 1 metre of any new hedge plant;”;
- (d) at the end of paragraph (2)(o), omit “and”; and
- (e) at the end of paragraph (2)(p) insert—

“; and

- (q) maintains existing hedgerows, trees and where new hedgerow trees develop, maintains at least one tree per 200 metres of hedgerow by marking the trees and not cutting them.”.

**Amendment to option 48 (management of extended hedges)**

**39.** In option 48 (management of extended hedges)—

- (a) in column 1 for “Management of Extended Hedges” substitute “Management of extended hedges and hedgerow trees”;
- (b) in column 2, in paragraph (2), for sub-paragraph (e) substitute—
  - “(e) does not apply pesticides to the managed strip except with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species, and where the hedge is next to a watercourse, has consulted SEPA before application of the pesticides;”;
  - and
- (c) in column 2, at the end of paragraph 2(h) insert—
  - “; and
  - (i) maintains existing hedgerow trees and allows new hedgerow trees to develop at irregular intervals and maintains at least one tree per 200 metres of hedgerow by marking the trees and not cutting them.”.

**Amendment to option 49 (management of grass margins and beetlebanks in arable fields)**

**40.** In option 49 (management of grass margins and beetlebanks in arable fields)—

- (a) in column 2, in paragraph (3)(a)—
  - (i) for “6” where it appears the second time, substitute “3”; and
  - (ii) after “Kestrel” insert “, and plants at least one species of a nectar-feeding plant such as red clover if it does not exist currently on the strip”;
- (b) in column 2, in paragraph (3)(c) for “establishes the strip” substitute “where no strip currently exists, establishes a strip”;
- (c) in column 2, in paragraph (3)(d) omit “. Spot treatment of scheduled and non-native invasive weeds is permitted”;
- (d) in column 2, omit paragraph (3)(f);
- (e) in column 2, in paragraph (3)(g) after “site” insert “except with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species”;
- (f) in column 2, in paragraph (4), second sentence, for “carried out” substitute “relocated”; and
- (g) in column 3, after “per year” insert “for establishment and management of a strip and £407.92 per hectare per year for management of an existing strip”.

**Amendment to option 50 (bio-diversity cropping on in-bye)**

**41.** In option 50 (bio-diversity cropping on in-bye), in column 2, in paragraph (2)—

- (a) omit sub-paragraph (c); and

- (b) in sub-paragraph (d), after “site” insert “except with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species”.

**Amendment to option 51 (management of cropped machair)**

**42.** In option 51 (management of cropped machair)—

- (a) in column 2, in paragraph (2)(a), after “fallow” insert “and the site may be sown to an arable crop for up to two consecutive years”;
- (b) in column 2, in paragraph (2)(b), after “crop” insert “in the second year (where it applies)”;
- (c) in column 2, in paragraph (2) for sub-paragraph (d) substitute—
  - “(d) does not cultivate to a depth of more than 150 millimetres and where cultivation does not exceed 100 millimetres, a supplementary premium will be paid.”;
- (d) in column 2, omit paragraph (2)(e);
- (e) in column 2, paragraph (2)(f) after “site” insert “except with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species”;
- (f) in column 2, after paragraph (3) insert—
  - “(4) Where the area has been managed as cropped machair under a previous agri-environment scheme, annual payments will be made in arrears across the whole area of cropped machair (whether in crop or laying fallow) from the first year.
  - (5) Otherwise, annual payments may commence at the end of the year in which the site is first sown down to spring crop, then annually thereafter for the balance of the five year undertaking.”; and
- (g) in column 3, after “stacks, per hectare per year” insert “, £31 per hectare per year supplement when all ploughing is undertaken by a shallow cultivation depth of 100 millimetres, and £41 supplement per beneficiary per year when sharing equipment for shallow cultivation.”.

**Amendment to option 52 (management of ancient wood pasture)**

**43.** In option 52 (management of ancient wood pasture), in column 2—

- (a) in paragraph (4)(a), for sub-paragraph (aa) substitute—
  - “(aa) not apply lime, artificial fertiliser, farmyard manure or slurry to the site.”;
- (b) in paragraph (4)(a), after sub-paragraph (gg) insert—
  - “(hh) not apply pesticides except with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species.”;
- (c) in paragraph (4)(b), for sub-paragraph (i) substitute—
  - “(i) does not apply lime, artificial fertiliser, farmyard manure or slurry to the site.”;
- (d) at the end of paragraph (4)(b)(vi), omit “and”; and
- (e) at the end of paragraph (4)(b)(vii), insert—
  - “; and

- (viii) does not apply pesticides except with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species.”.

**Amendment to option 53 (management of scrub and tall herb communities)**

44. In option 53 (management of scrub and tall herb communities), in column 2, in paragraph (2) (g), after “site” insert “except for herbicides which may be applied with the prior written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species”.

**Amendment to option 54 (arable reversion to grassland)**

45. In option 54 (arable reversion to grassland)—

- (a) in column 2, in paragraph (2)—
- (i) for sub-paragraph (a) substitute—
- “(a) identifies risk areas through either a specialist diffuse pollution audit or a soil and water management plan; and”;
- (ii) in sub-paragraph (b), after “when the grass sward is established” insert “either under a previous agri-environment scheme or because the beneficiary converts fields (or areas within fields) that are prone to flooding, runoff or erosion risk from arable farming to grassland by sowing a suitable mix of grass seed and addressing any areas of soil compaction before seed is sown”; and
- (iii) in sub-paragraph (b)(iii), for “approval of Scottish Ministers” substitute “written agreement of the Scottish Ministers for activities such as spot treatment of injurious weeds or control of invasive non-native species”; and
- (b) in column 3 for “250 per hectare per year.” substitute “For conversion and management of grassland £240.74 per hectare per year and for management only £207 per hectare per year.”.

**Amendment to option 60 (woodland creation)**

46. In option 60 (woodland creation)—

- (a) in paragraph (2)(a)(iv), after “woodland” insert “(other than such woodland in the Northern and Western Isles)”;
- (b) in paragraph (2)(a)(vi), after “woodland” insert “(other than such woodland in Central Scotland); and
- (c) after paragraph (2)(a)(vi) insert—
- “(vii) native woodland in the Northern and Western Isles;
- (viii) mixed conifer/broadleaved woodland in Central Scotland;”.

**Amendment to option 61 (sustainable management of forests and woodlands)**

47. In option 61 (sustainable management of forests and woodlands), in paragraph (2)(a) after “forest” insert “management”.

**Amendment to option 66 (information and awareness raising)**

48. In option 66 (information and awareness raising)—



- (a) in column 2, in paragraph (1)(a)(iii) for “the public” substitute “users of all abilities”;
- (b) in column 2, in paragraph (1) for sub-paragraph (f) substitute—
  - “(f) submits two quotes based on actual costs for each capital item. Where the item can only be supplied by one supplier, one quote is sufficient.”;
- (c) after paragraph (1) insert—
  - “(2) The beneficiary is eligible for different capital items in each year of the undertaking.
  - (3) This is a five year commitment.”; and
- (d) in column 3, for the existing words substitute—
  - “Up to 100% of actual costs for capital items up to a maximum of £10,000 for publications and other media and £50,000 for panels/trails/signage. There is no maximum limit for improvements of accessibility for users of all abilities.”.

**Amendment to option 70 (active management to improve the condition of vernacular rural buildings, archaeological or historic sites and historic landscapes)**

**49.** In option 70 (active management to improve the condition of vernacular rural buildings, archaeological or historic sites and historic landscapes)—

- (a) in column 2—
  - (i) in paragraph (1)(a), omit “and subsequently monitors and manages the improved sites”;
  - (ii) in paragraph (1), for sub-paragraph (b) substitute—
    - “(b) carries out a programme of specified repair to conserve and enhance the historic fabric of pre 1940 vernacular buildings, excluding buildings designated as scheduled monuments under the Ancient Monuments and Archaeological Areas Act 1979(8).”;
  - (iii) in paragraph (2)(a)(i), after “managed” insert “and the location of works and capital items proposed, supported by annotated photographic documentation”;
  - (iv) in paragraph (2)(a), for head (ii) substitute—
    - “(ii) keep a photographic record of each site before management commences and then after the first year, three years and five years of the management of the site; and.”;
  - (v) omit paragraph (2)(b)(iii);
  - (vi) in paragraph (2)(b)(iv), after “visible features on site” insert “unless the beneficiary has obtained written confirmation from the local authority that a reduced distance is appropriate”;
  - (vii) in paragraph (2)(b)(v), after “reseeded” insert “for which archaeological supervision by a qualified and competent person working to the Institute For Archaeologists (IFA) standard or similar recognised standard for archaeological work in the UK is required unless the beneficiary has obtained written confirmation from Historic Scotland, in the case of scheduled monuments, or the local authority, in the case of unscheduled sites, that supervision is not required”;
  - (viii) in paragraph (2)(b), for head (vi) substitute—

- “(vi) on the basis of specialist advice, consolidation of masonry in ruined buildings including vegetation removal. Work must be restricted to the minimum level of intervention required to prevent further deterioration;”;
- (ix) in paragraph (2)(b)(vii), after “historic sites” insert “for which archaeological supervision by a qualified and competent person working to the Institute For Archaeologists (IFA) standard or similar recognised standard for archaeological work in the UK is required unless the beneficiary has obtained written confirmation from Historic Scotland, in the case of scheduled monuments, or the local authority, in the case of unscheduled sites, that supervision is not required”;
- (x) in paragraph (2), for sub-paragraph (c) substitute—
- “(c) a beneficiary must submit receipted invoices in support of payment claims. Works associated with the requirements of the Waste Management Licensing Regulations 1994<sup>(9)</sup> are ineligible for funding.”;
- (xi) in paragraph (3)(a)—
- (aa) at the end of head (i), omit “and”; and
- (bb) at the end of head (ii) insert—
- “and
- (iii) submit a map or sketch detailing the precise location of the building to be repaired together with any relevant drawings or plans, supported by annotated photographic documentation showing location of works and capital items proposed;”;
- (xii) in paragraph (3), for sub-paragraph (b) substitute—
- “(b) a beneficiary is eligible for payment if the beneficiary—
- (i) carries out repairs on the historic fabric of the building on a like-for-like basis or the re-instatement of original or historic feature or materials; at least 75% of the walls of the building must survive to the wallhead; and
- (ii) submits receipted invoices in support of payment claims; specialist fees, including architects’ and engineers’ fees, are eligible for payment;”;
- (xiii) in paragraph (3), for sub-paragraph (c) substitute—
- “(c) for five years after the beneficiary has received payment—
- (i) the buildings, sites or landscapes, for which works have been funded under this option, must be maintained and not modified or sold; and
- (ii) the buildings must not be used for human residential habitation; and
- (d) this option can be undertaken with other rural priorities options if this does not result in the loss or modification of the historic fabric of the building or the unnecessary loss of original internal fixtures.”; and
- (b) in column 3—
- (i) for “at 100%” substitute “up to 100%”;
- (ii) for “at 75%” substitute “up to 75%”; and

(9) S.I. 1994/1055, as relevantly amended by S.I. 1994/1137, 1995/288 and 1950, 1996/593, 634, 916, 972, 973 and 1279, 1997/2203, 1998/606 and 2746, and S.S.I. 2000/323 and 235, 2003/170, 171 and 593, 2004/275, 2005/22, 2006/128 and 541, 2007/172 and 251.

(iii) after “project costs incurred.” insert—

“For options (a) and (b), specialist fees and statutory consents fees up to a maximum of 12% of the overall project costs.”.

**Amendment to option 74 (removal of vegetation/debris from SSSI sites notified for their geological features)**

**50.** In option 74 (removal of vegetation/debris from SSSI Sites notified for their geological features), in column 2 omit paragraph (4).

**Amendment to option 75 (erosion control)**

**51.** In option 75 (erosion control), in column 2 omit paragraph (4).

**Amendment to option 77 (capital works required for SSSI and European Site features which enhance the public amenity value of those features)**

**52.** In option 77 (capital works required for SSSI and European Site features which enhance the public amenity value of those features), in column 2 omit paragraph (4).

**Amendment to option 78 (controlled livestock grazing of woodland)**

**53.** In option 78 (controlled livestock grazing of woodland), in column 2—

(a) in paragraph (2), for sub-paragraph (a) substitute—

“(a) has an area of native woodland of at least five hectares; or”;

(b) in paragraph (2)(b), omit “semi-natural”; and

(c) at the end of paragraph (2)(c), for “; and” substitute—

“; or

(d) has an area of non-native woodlands where woodland grazing would benefit specific species such as black grouse; and”.

**Insertion of options 79 to 81**

**54.** After option 78 (controlled livestock grazing of woodland), insert the options set out in columns 1, 2 and 3, of Schedule 1 to these Regulations.

**Amendment to Part 2 of Schedule 2**

**55.** In Schedule 2 (rural priorities options), Part 2—

(a) in Table B, at the end insert—

|  |      |   |      |
|--|------|---|------|
| “Native woodland in the Northern and Western Isles | 0.25 | — at least 60% native species<br>— up to 15% mixed broadleaved<br>— up to 25% open ground | 3000 |
|--|------|---|------|

|  |      |   |  |
|--|------|---|--|
| Mixed conifer/broadleaved woodland in Central Scotland | 0.25 | <ul style="list-style-type: none"> <li>— up to 20% mixed conifer species</li> <li>— up to 80% mixed broadleaved</li> <li>— up to 20% open ground</li> </ul> | Conifers – 2500<br>Broadleaved - 2100” |
|--|------|---|--|

(b) in Table C, at the end insert—

|  |      |      |
|--|------|------|
| “Native woodland in the Northern and Western Isles     | 5200 | 360  |
| Mixed conifer/broadleaved woodland in Central Scotland | 5000 | 300” |

(c) for Table D (Standard Cost For Forestry Operations/Capital Items) substitute the table set out in Schedule 2 to these Regulations; and

(d) in Table E (Actual Cost Capital Items) for the text in the first column (item column)—

- (i) in the first row, substitute “Capital works for SSSI Sites (which are high nature value areas) and European sites, which enhance the public amenity value of these features”; and
- (ii) in the second row, substitute “Control of rhododendron in geographical areas covered by a regional control strategy for this invasive non-native species in all native and ancient woodlands and in woodlands affected by *Phytophthora ramorum* (P. ramorum)”.

**Amendment to Table A in Schedule 3**

**56.** In Table A in Schedule 3 (standard payment rates for capital items)—

(a) for the entry relating to “Manual eradication of rhododendron” substitute—

|  |                                     |
|--|-------------------------------------|
| “Manual eradication of rhododendron:<br><br>Light infestation/easy access<br><br>(Bushes < 1.5 metres and flat site < 15 degrees)  | £4,500 per hectare of infested land |
| Medium infestation/access<br><br>(Bushes > 1.5 metres and flat site < 15 degrees;<br><br>bushes < 1.5 metres and slight slope > 15 degrees; or<br><br>bushes > 1.5 metres and slight slope > 15 degrees) | £6,100 per hectare of infested land |

|   |                                     |
|---|-------------------------------------|
| Difficult access<br>(Bushes < 1.5 metres and steep slope > 30 degrees; or<br>bushes > 1.5 metres and steep slope > 30 degrees)” | £9,500 per hectare of infested land |
|---|-------------------------------------|

- (b) for the entry relating to “Mechanised (and/or chemical eradication of rhododendron” substitute—

|   |                                      |
|---|--------------------------------------|
| “Mechanised eradication of rhododendron:<br><br>Light infestation/easy access | £1,800 per hectare of infested land  |
| Medium infestation/access   | £2,400 per hectare of infested land  |
| Difficult access  | £2,900 per hectare of infested land  |
| Chemical eradication of rhododendron by foliar or stem injection              | £1,500 per hectare of infested land” |

- (c) in column 1 (capital item) for “Heather restoration (in black grouse core areas)” substitute “Heather management (in black grouse and/ or capercaillie core areas)”; and  
(d) at the end of the table insert the following entry—

|                                  |  |
|----------------------------------|--|
| “Vole guard/small tree protector | £0.23 per vole guard/small tree protector” |
|----------------------------------|--|

#### **Amendment to Table B in Schedule 3**

**57.** In Table B in Schedule 3 (eligible capital items available through capital item option 77)—

- (a) in the entry relating to “Manual eradication of rhododendron”, in column 2 (maximum actual cost), for “£7,000” substitute “£14,250”; and  
(b) for the entry relating to “Mechanised (and/or chemical) eradication of rhododendron” substitute the following entries—

|  |  |
|--|--|
| “Mechanised eradication of rhododendron                          | Up to £4,350 per hectare of infested land  |
| Chemical eradication of rhododendron by foliar or stem injection | Up to £2,250 per hectare of infested land” |

#### **Amendment to Schedule 4**

**58.** In Schedule 4, Part 2 (secondary legislation)—

- (a) omit “The Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2003”; and

(b) insert at the end—

“The Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008~~(10)~~.”.

**Savings provision**

**59.** In respect of a claim for payment made before 1st January 2011, the principal Regulations continue to have effect as if the amendments made by regulations 3, 6, 8 to 11 had not been made.

St Andrew’s House,  
Edinburgh  
14th February 2011

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

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**(10)** S.S.I. 2008/298, as amended by S.S.I. 2008/394 and 2009/447.