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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 106**

**AGRICULTURE**

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

*Made* - - - - 14th February 2011  
*Laid before the Scottish  
Parliament* - - - - 17th February 2011  
*Coming into force* - - 15th March 2011

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(1) and all other powers enabling them to do so.

**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(2).

**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—

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(1) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), Schedule, Part 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 1998 Act.

(2) 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.

““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(3);

“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(4);”;

(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(5)

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

(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”.

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(3) 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.

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

(5) S.I. 2009/3263.

#### **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(6);”;

(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(7);”;

(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—

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

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

““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—

“(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 corncrake 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)(8)”;
- (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—

<p>“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.”</p>
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#### **Omission of option 26 (wardening for Golden Eagles)**

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

#### **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 sub-paragraphs (ii) and (ii) (where it occurs a second time) substitute—

- “(ii) 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 sub-paragraphs (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.

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(8) 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.

- (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<sup>(9)</sup>.”;
- (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 “reseeding” 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>(10)</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,

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<sup>(9)</sup> 1979 c.46.

<sup>(10)</sup> 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.

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.”;

(b) in column 3—

(i) for “at 100%” substitute “up to 100%”;

(ii) for “at 75%” substitute “up to 75%”; and

(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”;

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- (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 — up to 15% mixed broadleaved — up to 25% open ground	3000
Mixed conifer/broadleaved woodland in Central Scotland	0.25	— up to 20% mixed conifer species — up to 80% mixed broadleaved — up to 20% open ground	Conifers – 2500 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: Light infestation/easy access (Bushes < 1.5 metres and flat site < 15 degrees)	£4,500 per hectare of infested land
Medium infestation/access (Bushes > 1.5 metres and flat site < 15 degrees; bushes < 1.5 metres and slight slope > 15 degrees; or bushes > 1.5 metres and slight slope > 15 degrees)	£6,100 per hectare of infested land
Difficult access (Bushes < 1.5 metres and steep slope > 30 degrees; or 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: 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—

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“Vole guard/small tree protector	£0.23 per vole guard/small tree protector”
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### Amendment to Table B in Schedule 3

57. In Table B in Schedule 3 (eligible capital items available through capital item option 77)—
- in the entry relating to “Manual eradication of rhododendron”, in column 2 (maximum actual cost), for “£7,000” substitute “£14,250”; and
  - 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)—
- omit “The Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2003”; and
  - insert at the end—
 

“The Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008(11).”.

### 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

## SCHEDULE 1

Regulation 54

INSERTION OF OPTIONS 79 TO 81 IN PART 1 OF  
SCHEDULE 2 TO THE PRINCIPAL REGULATIONS

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Option</i>	<i>Activity and eligibility conditions</i>	<i>Rate of payment</i>
79. Creation and management of grassland for hen harriers	<p>(1) This is a 5 year commitment.</p> <p>(2) There are two elements to this option (A and B) to support hen harriers breeding in Special Protection Areas and Sites of Special Scientific Interest:—</p> <p>A: Creation and management of rough grassland for hen harriers—</p> <p>(a) Creation and management of rough grassland on arable land;</p> <p>(b) Creation and management of rough grassland on improved grassland;</p> <p>(c) Creation or management of rough grassland on unimproved grass; and</p> <p>B: Creation and management of rough habitats for hen harriers.</p> <p>(3) For both elements A and B, a beneficiary is eligible for payment under this option if the beneficiary—</p> <p>(a) provides forage areas for hen harriers, within two kilometres of known hen harrier nest sites;</p> <p>(b) ensures that a dense cover of grass and other plants is created within the forage areas;</p> <p>(c) agrees with the Scottish Ministers a livestock management and grazing plan;</p>	<p>For A(a) £256 per hectare per year</p> <p>For A(b) £208 per hectare per year</p> <p>For A(c) £124 per hectare per year.</p> <p>For both A(a) and (b) up to a maximum of two hectares per year unless a beneficiary has prior written agreement from SNH for a larger area.</p> <p>For B £33 per hectare per year.</p>

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Option</i>	<i>Activity and eligibility conditions</i>	<i>Rate of payment</i>
	<p>(d) unless otherwise agreed with the Scottish Ministers, manages grassland with nil or light grazing with up to 0.15 livestock units per hectare from 1st May to 30th September, to produce a dense cover of grass and thatch for voles to live in;</p> <p>(e) does not apply fertiliser, slurry or farmyard manure to the managed area;</p> <p>(f) 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;</p> <p>(g) does not carry out supplementary livestock feeding on the site; and</p> <p>(h) where new grassland sward is being created, sows the site with a low productivity grass and herb mix agreed with the Scottish Ministers and uses seeds of local origin wherever possible.</p> <p>(4) For element A(c), beneficiaries with areas managed under the “creation and management of rough grassland on unimproved grass” option of the Orkney Hen Harrier Scheme are not eligible until contracts under that Scheme have expired.</p> <p>(5) For element B beneficiaries must maintain the rough vegetation for vole habitat and must not graze the area except in exceptional circumstances where a light grazing regime has been agreed with the Scottish Ministers.</p>	
80. Open grazed grassland	(1) This is a 5 year commitment.	£93.72 per hectare per year

<i>Column 1</i> <i>Option</i>	<i>Column 2</i> <i>Activity and eligibility conditions</i>	<i>Column 3</i> <i>Rate of payment</i>
management for chough	<p>(2) A beneficiary is eligible for payment under this option for farm land on in-bye rotational grassland, permanent grassland, coastal grassland and heath on free draining or sandy soils in the Argyll Islands or in Wigtownshire, which is subject to year round or seasonal grazing, if the beneficiary—</p> <ul style="list-style-type: none"> <li>(a) manages grazing land to benefit chough by providing them with the conditions essential for them to breed successfully;</li> <li>(b) agrees with the Scottish Ministers a grazing plan setting out a livestock management and grazing regime;</li> <li>(c) includes in the grazing plan the supplementary feeding methods for the livestock including the feeding location and how the feeding will be carried out to ensure that livestock graze the whole unit;</li> <li>(d) maintains an open sward on the site;</li> <li>(e) allows cattle and/or sheep to graze throughout the year or during specific times identified in the grazing plan;</li> <li>(f) manages the sward to create a variable height of more than 1 cm and up to 13cm which can include areas of sparse vegetation except when the field is closed off for silage production when the sward may exceed 13cm;</li> <li>(g) includes in the grazing plan the timing of any grazing breaks;</li> <li>(h) ensures the ground surface is visible and free from a build up of matted vegetation;</li> </ul>	

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Option</i>	<i>Activity and eligibility conditions</i>	<i>Rate of payment</i>
	<p>(i) treats livestock where necessary with non-Avermectin based drugs unless otherwise advised by a veterinary surgeon and with the agreement of the Scottish Ministers;</p> <p>(j) cuts silage on or before 20th June; and</p> <p>(k) 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.</p> <p>(3) The same field need not be managed each year but the beneficiary must provide details of the fields to be rotated in this way, their location and areas at the application stage. 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.</p>	
81. Upland habitat management plan	<p>(1) This is a commitment not exceeding 6 years.</p> <p>(2) A beneficiary is eligible for payment under this option if the beneficiary—</p> <p>(a) where necessary assesses the site, and prepares an upland habitat management plan for upland within or affecting designated SSSI, SAC and SPA sites which are at risk from negative deer or livestock impacts;</p> <p>(b) submits the upland habitat management plan to the Scottish Ministers for approval within a period of 12 months of the commencement of the commitment; and</p>	<p>Site assessment: 100% of actual costs</p> <p>Upland habitat management plan (including annual reviews):</p> <p>Deer only: 100% of actual costs up to a maximum of £64,383.56</p>

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Option</i>	<i>Activity and eligibility conditions</i>	<i>Rate of payment</i>
	<p>(c) begins implementing the upland habitat management plan within a period of 13 months of commencement of the commitment under this option.</p> <p>(3) Support will be available where—</p> <p>(a) in the opinion of the Scottish Ministers the areas to be managed are large, have complex management issues or where collaboration by other land managers is required; and</p> <p>(b) either head (i) or head (ii) applies—</p> <p>(i) this head applies where either or both (aa) or (bb) below applies—</p> <p>(aa) deer management can be used to maintain or bring into favourable condition the upland features that are affected by grazing impacts;</p>	<p>Deer and livestock:</p> <p>100% of actual costs up to a maximum of £64,383.56</p> <p>Livestock only: 100% actual costs, minimum of £600 up to a maximum of £1600</p> <p>Costs of land managers' own time are not eligible.</p> <p>Habitat impact assessment in Year 3 of implementation: 100% of actual costs</p>
	<p>(bb) deer are present, and in the opinion of the Scottish Ministers, the proposed upland habitat management plan considers whole deer ranges/livestock hefts are sufficient to enable the delivery of option objectives and in the opinion of the Scottish Ministers there is no requirement for compulsory management measures; or</p> <p>(ii) livestock only management can be used to maintain or bring into favourable condition the upland features that are affected by impact of grazing.</p> <p>(4) The upland habitat management plan must—</p> <p>(a) provide an audit of the condition of the upland site and identify how the impact of deer and/or livestock will be minimised;</p>	<p>Open range deer count, if required, in Year 3 or early Year 4 of implementation: 100% of actual costs.</p>

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Option</i>	<i>Activity and eligibility conditions</i>	<i>Rate of payment</i>
	<p>(b) address in an integrated manner the impacts of all grazing animals on the condition of the special features of the site, including deer and livestock;</p> <p>(c) comply with technical guidance for upland habitat management plans and where deer are present, with SNH Best Practice Guidance on Deer Management Plans(12);</p> <p>(d) detail which habitats are to be assessed and ensure sampling for these assessments is stratified by management units;</p> <p>(e) include achievable targets for enhancing the condition of key habitats within the implementation period of 5 years of the upland habitat management plan;</p> <p>(f) be supported by survey and monitoring information and must be reviewed and updated at the end of each of the first 4 years of the implementation period. In the case of annual deer culls, the review must take place after the cull and by 30th April;</p> <p>(g) take account of its likely impact on neighbouring land and any aspects of neighbouring land that might affect its delivery;</p> <p>(h) within a deer range which includes areas of woodland linked to open range areas, take the impacts of deer on the woodland habitats into account. Plans prepared under option 62 for adjacent woodland must also be taken into account; and</p>	

(12) This guidance is available online [http://www.bestpracticeguides.org.uk/planning\\_dmeps.aspx](http://www.bestpracticeguides.org.uk/planning_dmeps.aspx) or by contacting Great Glen House, Leachkin Road, Inverness, IV3 8NW.

<i>Column 1</i> <i>Option</i>	<i>Column 2</i> <i>Activity and eligibility conditions</i>	<i>Column 3</i> <i>Rate of payment</i>
	<p>(i) include a timetable for preparation and implementation of the upland habitat management plan.</p> <p>(5) Where deer and/or livestock have free range across management unit boundaries or where livestock and deer management are carried out on the same management unit and neighbouring land managers wish to collaborate they must—</p> <p>(a) establish a forum to consult and agree objectives and actions;</p> <p>(b) consult SNH to ensure the upland range being targeted is biologically viable;</p> <p>(c) ensure the upland habitat management plan includes measures to manage the impact of grazing and trampling over the collaborative area, is prepared by a consultant and provides an overview of how deer and livestock impacts will be managed over the collaborative management area and includes individual plans for each land holding; and</p> <p>(d) divide the costs of preparing the overview among forum participants with each land manager liable for the cost of the plan for their own holding.</p> <p>(6) Where deer are present, the beneficiary must carry out a habitat impact assessment in the third year of implementing the upland habitat management plan.</p> <p>(7) Where the habitat impact assessment indicates that the deer management must be adjusted to meet targets, the beneficiary must carry out a deer count by helicopter in the third year or early in the fourth year of implementing the plan to inform changes to the upland habitat management plan in the fourth and fifth year of the implementation period.</p>	

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Option</i>	<i>Activity and eligibility conditions</i>	<i>Rate of payment</i>
	<p>(8) Where the habitat impact assessment indicates that a deer count may not be required, the beneficiary must notify the Scottish Ministers before 30th September and the Scottish Ministers may decide that the beneficiary does not need to undertake a deer count by helicopter.</p> <p>(9) The habitat impact assessment and the deer count by helicopter must comply with the SNH Best Practice guidance(13).</p> <p>(10) The beneficiary may enter into different contracts for each element of the upland habitat management plan and is responsible for managing the contracts. Applications for aid must be supported by quotes in accordance with programme guidance.</p>	

## SCHEDULE 2

Regulation 55(c)

SUBSTITUTION OF TABLE D IN PART 2 OF  
SCHEDULE 2 TO THE PRINCIPAL REGULATIONS

**Table D**

## Standard Costs for Forestry Operations/Capital Items

<i>Column 1</i> <i>Item</i>	<i>Column 2</i> <i>Standard Cost</i>
Fell/extract dangerous trees	£200 per tree
Manual brashing	£0.35 per tree
High pruning	£1.30 per tree
Badger gates installed in fence lines which are cutting across an established badger run	£110 per gate
Respace natural regeneration	£600 per hectare
Early pruning of trees	£375 per hectare
High pruning of trees	£660 per hectare
Woodland thinning	£520 per hectare
Removal of tree crop to waste 3-6 metres high	£1,100 per hectare

(13) The guidance is available at [www.bestpracticeguides.org.uk/siteindex.aspx](http://www.bestpracticeguides.org.uk/siteindex.aspx).

<i>Column 1 Item</i>	<i>Column 2 Standard Cost</i>
Woodland clearance - felling of waste	£975 per hectare
Woodland clearance - felling and extraction	£1375 per hectare
Seedling tree removal	£35 per hectare
Chipping/mulching of tree debris and brash	£500 per hectare
Restructuring with Caledonian Scots pine	£411.64 per hectare
Restructuring with diverse conifers	£411.64 per hectare
Restructuring with mixed broadleaves	£1,030.14 per hectare
Restructuring with native broadleaves	£1,100 per hectare
Restructuring with mixed conifer and broadleaves	£595.89 per hectare
Woodland deer impact reduction	£30 per hectare for deer control during the first 5 years of a Deer Management Plan
Forest plan preparation	£20 per hectare for first 200 hectares, £5 per hectare thereafter with a minimum payment of £400 and a maximum payment of £15,000
Dead wood management	£40 per hectare
Stock fence	£4 per metre
Enhancing/modifying a stock fence in black grouse and capercaillie core areas	£2 per metre
New deer fence	£7.25 per metre
Upgrading stock to deer fence	£2.75 per metre
Scare or temporary fencing	£1.50 per metre
Rabbit proofing – existing or new stock/deer fence	£1.90 per metre
Enhancing/modifying a deer fence in black grouse and capercaillie core areas	£5 per metre
Conversion of deer fence to stock fence in black grouse and capercaillie core areas	£2 per metre
Fence removal	£2 per metre
Gate for stock fence	£100 each
Gate for deer fence	£170 each
Ditch/drain blocking with plastic piling dams: Small ditches (up to 0.5 metres wide and deep)	£60 per dam
Ditch/drain blocking with plastic piling dams: Medium ditches (between 0.5 and 1 metre wide and deep)	£120 per dam

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<i>Column 1 Item</i>	<i>Column 2 Standard Cost</i>
Ditch/drain blocking with plastic piling dams: Large ditches (between 1 and 2 metres wide and 0.5 and 1 metre deep)	£280 per dam
Peat dam	£0.26 per metre of drain or furrow blocked with peat dams. Minimum payment £300
Small scale tree and shrub planting (on a site not exceeding 0.25 hectares)	£2 per tree or shrub
Provision of bat and bird boxes	£15 per box
Primary treatment of bracken	£200/hectare of infested land
Eradication of scrub/woody vegetation: Light vegetation	£600/hectare
Eradication of scrub/woody vegetation: Intermediate vegetation	£850/hectare
Eradication of scrub/woody vegetation: Heavy vegetation	£1250/hectare
Removal from site of the cut shrub/woody vegetation: Light vegetation	£500/hectare
Removal from site of the cut shrub/woody vegetation: Intermediate vegetation	£1050/hectare
Removal from site of the cut shrub/woody vegetation: Heavy vegetation	£1450/hectare
Provision of water troughs to replace traditional watering points	£195 each
Installation of water supply pipe to water trough or pasture pump	£3 per metre of pipe laid
Water trough pump: cattle operated pasture or nose pump	£180 per installed pump
Stock bridge for bog management:	£170 per bridge
Small bridge	£620 per bridge
Large bridge (for ditch wider than 1.5 metres)	
Heather management (in black grouse and Capercaillie core areas)	£250/hectare
Manual eradication of rhododendron:	£4,500 per hectare of infested land
Light infestation/easy access	£6,100 per hectare of infested land
Medium infestation/access	£9,500 per hectare of infested land
Difficult access	

<i>Column 1 Item</i>	<i>Column 2 Standard Cost</i>
Mechanised eradication of rhododendron:	£1,800 per hectare of infested land
Light infestation/easy access	£2,400 per hectare of infested land
Medium infestation/access	£2,900 per hectare of infested land
Difficult access	
Chemical eradication of rhododendron by foliar or stem injection	£1,500 per hectare of infested land
Self-closing/kissing gate for non-vehicular access	£350 each
Stile	£55 each
Building/restoring drystone or flagstone dykes	£17.50 per square metre

## 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. L 277, 21.10.2005, p.1), as amended, (“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. L 209, 11.8.2005, p.1)) and Commission Regulations (EC) No. 1974/2006 (O.J. L 368, 23.12.2006, p.15) and 65/2011 (O.J. L 25, 28.1.2011, p.8) 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 to the 2008 Regulations, and where relevant one or more of the capital items in relation to a particular rural priorities option as set out in Schedule 3 to the 2008 Regulations.

These Regulations amend the 2008 Regulations by amending the definition of “area related options” (regulation 2) and making consequential changes to cross-compliance and payment requirements (regulations 5 and 7(a)).

They amend the 2008 Regulations by replacing references to Commission Regulation 796/2004 with references to Commission Regulation 1122/2009 (regulations 3, 4, 6 and 7) and references to Commission Regulation 1975/2006 with references to Commission Regulation 65/2011 (regulations 3, 6, 8, 9, 10 and 11) and they update some domestic statutory references (regulations 3 and 58).

These Regulations amend Schedule 1 to the 2008 Regulations by adding new definitions of serpentine vegetation, special interest heath and winter keep and amending the definitions of coastal heath, rural settlement, fully organic, organic production and omit the definition of Organic Standards Compendium (regulation 12).

Rural priorities option 26 (wardening for Golden Eagles) is omitted and rural priority options 10, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 27, 28, 30, 31, 32, 33, 34, 35, 37, 38, 41, 43, 47, 48, 49, 50, 51, 52, 53, 54, 60, 61, 66, 67, 70, 74, 75 and 78 in Part 1 of Schedule 2 are amended (regulations 13 to 53), in particular option 10 (improving the economic value of forests) to reduce the required area of forest; option 19 (management of mown grassland for corncrakes) to include chough; option 38 (management of coastal or serpentine heath) to include special interest heath; option 30 (creation and management of species rich grassland) for the benefit to wildlife and also to bees, moths and butterflies; option 48 (management of extended hedges to include hedgerow trees; option 51 (management of cropped machair) to provide additional payment for shallow ploughing and sharing ploughing equipment; option 60 (woodland creation) to add new woodland types in Northern and Western Isles and Central Scotland; option 70 (vernacular rural buildings, archaeological or historic sites, historic landscapes) to include involvement of professional advisors and exclude beneficiary's own labour costs; in a number of options to ensure that the application of pesticides is only permitted with the prior written agreement of the Scottish Ministers and other small clarifications.

New rural priorities options are added into Part 1 of Schedule 2 (regulation 54 and Schedule 1). These are options 79 (creation and management of grassland for hen harriers), 80 (Open grazed grassland management for chough) and 81 (Upland habitat management plan). The 2008 Regulations contained options 1 to 73, options 74 to 77 were added by [SSI 2008/233](#) and option 78 was added by [SSI 2009/411](#).

New payment rates for woodland creation in the Northern and Western Isles and in Central Scotland are introduced in Part 2 of Schedule 2 to the 2008 Regulations (regulation 55(a) and 55(b)) and some standard costs for forestry operations/capital items are amended in Table D in Part 2 of Schedule 2 (regulation 55(c) and Schedule 2). The description of the two items for payment of woodland improvement grants in Table E of Part 2 of Schedule 2 has been amended (regulation 55(d)).

In Table A of Schedule 3 to the 2008 Regulations, the standard payment rates for capital items have been amended in relation to eradication of rhododendron, the description of heather management in black grouse core areas has been amended to include capercaillie core areas and a new capital item covering vole guard/small tree protector has been introduced (regulation 56). The eligible capital items available through item option 77 have been amended in relation to eradication of rhododendron (regulation 57).

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