

**2015 No. 105**

**CROFTERS, COTTARS AND SMALL LANDHOLDERS**

**The Crofting Counties Agricultural Grants (Scotland) Variation  
Scheme 2015**

<i>Made</i> - - - -	<i>4th March 2015</i>
<i>Laid before the Scottish Parliament</i>	<i>6th March 2015</i>
<i>Coming into force</i> - -	<i>6th April 2015</i>

The Scottish Ministers make the following Scheme in exercise of the powers conferred by sections 42(1), (1A), (2) and (3) and 46(4) of the Crofters (Scotland) Act 1993 (“the 1993 Act”)(a) and section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 (“the 1972 Act”)(b) and all other powers enabling them to do so.

In accordance with section 42(1) of the 1993 Act, they have consulted with the Crofting Commission.

This Scheme makes provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears to the Scottish Ministers that it is expedient for references in this Scheme and the Scheme it is varying to Commission Delegated Regulation 640/2014 and Commission Implementing Regulation 809/2014 (as defined in paragraph 3(2)(a) of this Scheme) to be construed as references to those Regulations as amended from time to time.

**Citation, commencement and interpretation**

**1.** This Scheme may be cited as the Crofting Counties Agricultural Grants (Scotland) Variation Scheme 2015 and comes into force on 6th April 2015.

**2.** In this Scheme, “the principal Scheme” means the Crofting Counties Agricultural Grants (Scotland) Scheme 2006(c).

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(a) 1993 c.44; section 42(1) was amended by the Crofting Reform etc. Act 2007 (asp 7) (“the 2007 Act”), schedule 1, paragraph 2(10)(a). Section 46(4) was amended by the 2007 Act, schedule 1, paragraph 2(13)(d) and the Crofting Reform (Scotland) Act 2010 (asp 14), schedule 4, paragraph 3(27). The functions of the Secretary of State, in or as regards Scotland, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (‘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), section 3(3) and Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. Paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act and was amended by the 2008 Act, Schedule, Part 1. Section 2(2) and paragraph 1A of Schedule 2 are relevant to paragraph 3(2) of this Scheme.

(c) S.S.I. 2006/24 as amended by S.S.I. 2008/58, S.S.I. 2011/72, S.S.I. 2011/262 and the Crofting Reform (Scotland) Act 2010 (asp 14).

## **Amendment of the principal Scheme**

3.—(1) The principal Scheme is amended in accordance with sub-paragraphs (2) to (8).

(2) In paragraph 2(1) (interpretation)—

(a) after the definition of “Commission Regulation 65/2011”(a) insert—

““Commission Delegated Regulation 640/2014” means Commission Delegated Regulation (EU) No 640/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance, as amended from time to time(b);

“Commission Implementing Regulation 809/2014” means Commission Implementing Regulation (EU) No 809/2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance, as amended from time to time(c);”;

(b) omit “and” after the definition of “livestock”;

(c) after the definition of “operation” insert—

““Regulation 1305/2013” means Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005(d); and

“young farmer” has the same meaning as in point (n) of Article 2(1) of Regulation 1305/2013 as read with Annex II of that Regulation(e).”.

(3) For paragraphs 6 (restrictions on payment of grant) and 7 (amount of grant) substitute—

### **“Restrictions on payment of grant**

6.—(1) Subject to sub-paragraph (3), the amount of grant paid, payable or approved by the Scottish Ministers under paragraph 4(1), whether for an operation or part of an operation in any two year period, must not exceed—

(a) in the case of a grant to a crofter or eligible occupier, £25,000; or

(b) in the case of a grant to a grazings committee or to a group approved by the Scottish Ministers consisting of crofters and eligible occupiers or any of these, £125,000.

(2) The two year period referred to in sub-paragraph (1) runs from a date two years before the date on which the current application for grant was received by the Scottish Ministers.

(3) Where the grant referred to in sub-paragraph (1) is for part of an operation and the maximum amount of grant has been paid, no further grant is payable for the same operation.

(4) The Scottish Ministers must not pay a grant where—

(a) they are satisfied that the use of the land in accordance with an operation or part of an operation would frustrate the purposes of any assistance previously given out of money provided by, or under, any statutory provision or by the European Union;

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(a) The definition of “Commission Regulation 65/2011” was inserted by S.S.I. 2011/262.

(b) OJ L 181, 20.6.2014, p.48.

(c) OJ L 227, 31.7.2014, p.69.

(d) OJ L 347, 20.12.2013, p.487, as last amended by Commission Delegated Regulation (EU) No 1378/2014 (OJ L 367, 23.12.2014, p.16).

(e) In relation to provision of support for investment in physical assets under Article 17(3) of Regulation 1305/2013, that includes young farmers who have set up for the first time as head of an agricultural holding during the five years preceding any application for support.

- (b) they are satisfied that any payment under this Scheme would duplicate any assistance previously given, or to be given, out of money provided by, or under, any statutory provision or by the European Union; or
- (c) the crofter or eligible occupier is excluded from support under Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development<sup>(a)</sup> pursuant to Article 30(2) of Commission Regulation 65/2011<sup>(b)</sup>.

(5) Where the amount of grant a crofter or eligible occupier has claimed exceeds, by more than 10%, the amount of grant that person is eligible to receive, the amount of grant payable shall be reduced by the difference between those two amounts, pursuant to Article 63(1) of Commission Implementing Regulation 809/2014.

(6) Sub-paragraph (5) does not apply where the Scottish Ministers are satisfied that the crofter or eligible occupier was not at fault.

### **Amount of grant**

7.—(1) The amount of grant payable under this Part of this Scheme towards the approved cost of any operation specified in paragraph 1 of the Schedule is the relevant percentage of the approved cost of that operation as determined in accordance with this paragraph and subject to the total amount of grant specified in paragraph 6(1).

(2) In the case of a grant to a crofter or eligible occupier—

- (a) in respect of an operation in a Less Favoured Area—
  - (i) 60%; or
  - (ii) where sub-paragraph (4) applies, 80%; or
- (b) in respect of an operation in an area other than a Less Favoured Area—
  - (i) 40%; or
  - (ii) where sub-paragraph (4) applies, 60%.

(3) In the case of a grant to a grazings committee or to a group referred to in paragraph 6(1)(b)—

- (a) in respect of an operation in a Less Favoured Area—
  - (i) 80%; or
  - (ii) where sub-paragraph (4) applies, 90%; or
- (b) in respect of an operation in an area other than a Less Favoured Area—
  - (i) 60%; or
  - (ii) where sub-paragraph (4) applies, 80%.

(4) This sub-paragraph applies where the applicant crofter, eligible occupier or each member of the grazings committee or group referred to in paragraph 6(1)(b) is a young farmer who has set up for the first time as the head of an agricultural holding within the period beginning five years before, and ending on, the date of submission of the application for grant.

(5) If the Scottish Ministers are satisfied that any condition subject to which a grant under this Part of this Scheme may be made has not been complied with in carrying out the relevant operation, they may, notwithstanding paragraph 7(1), either withhold payment of the grant or make payment of a grant of such amount as they may in all the circumstances of the case consider reasonable.”.

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(a) OJ L 277, 21.10.2005, p.1, as last amended by Regulation (EU) No 1312/2011 of the European Parliament and of the Council (OJ L 339, 21.12.2011, p.1). Regulation 1698/2005 was repealed subject to savings by Article 88 of Regulation 1305/2013.

(b) Commission Regulation 65/2011 was repealed subject to savings by Article 43 of Commission Delegated Regulation (EU) No 640/2014.

(4) For paragraph 10 (amount of grant) substitute—

**“Amount of grant**

**10.**—(1) The amount of grant payable under this Part of this Scheme in respect of a contribution must not exceed the relevant percentage of the contribution, as determined in accordance with this paragraph, and the total amount of grant specified in paragraph 6(1).

(2) In the case of a grant to a crofter or eligible occupier—

(a) where the croft or, as the case may be, part of the croft is in a Less Favoured Area—

(i) 60%; or

(ii) where sub-paragraph (4) applies, 80%; or

(b) where the croft or, as the case may be, part of the croft is in an area other than a Less Favoured Area—

(i) 40%; or

(ii) where sub-paragraph (4) applies, 60%.

(3) In the case of a grant to a grazings committee or to a group referred to in paragraph 6(1)(b)—

(a) where the croft or, as the case may be, part of the croft is in a Less Favoured Area—

(i) 80%; or

(ii) where sub-paragraph (4) applies, 90%; or

(b) where the croft or, as the case may be, part of the croft is in an area other than a Less Favoured Area—

(i) 60%; or

(ii) where sub-paragraph (4) applies, 80%.

(4) This sub-paragraph applies where the applicant crofter, eligible occupier or each member of the grazings committee or group referred to in paragraph 6(1)(b) is a young farmer who has set up for the first time as the head of an agricultural holding within the period beginning five years before, and ending on, the date of submission of the application for grant.”.

(5) After Part 3 (grants in respect of contributions) insert—

**“PART 3A**

**GRANTS IN RESPECT OF THE ESTABLISHMENT OF GRAZING COMMITTEES**

**Grants to be made**

**10A.**—(1) Subject to the provisions of this Scheme, the Scottish Ministers may make a grant under this Part of this Scheme to a crofter or eligible occupier who shares in a common grazing in respect of the establishment of a grazings committee to be appointed under section 47(1) of the Act of 1993.

(2) A grant may be made under this Part of this Scheme provided that no grazing committee was appointed in respect of the common grazing during the period beginning three years before, and ending on, the date on which the current application for grant was received by the Scottish Ministers.

## **Application for and conditions of grant**

**10B.**—(1) Any application for a grant under this Part of this Scheme is to be made in such form and manner and at such time as the Scottish Ministers may from time to time require and, in particular, must be submitted with the consent of a majority of those persons who share in the common grazing.

(2) Any grant which may be made under this Part of this Scheme is subject to such conditions as may be intimated in writing to the applicant by the Scottish Ministers at the time of the making of the grant.

## **Amount of grant**

**10C.** The amount of any grant payable under this Part of this Scheme must not exceed £500.”.

(6) In paragraph 11A(1)(a) and (2)(a) (power of authorised persons)(a), after “Part 3” insert “or Part 3A”.

(7) In paragraph 13 (recovery of grant, etc.)—

- (a) in sub-paragraph (1)(a) omit “or paragraph 3 of the Schedule to this Scheme,”;
- (b) in sub-paragraph (1)(b), for “paragraph 3 of the Schedule to” substitute “paragraph 10B(2) of”; and
- (c) at the end of sub-paragraph (1)(aa), for “or” substitute “and”.

(8) For paragraph 1 of the Schedule (eligible operations) substitute—

“1. Subject to the provisions of this Schedule and of paragraph 7 of this Scheme, the approved cost of any operation specified in the following list is an operation under this Scheme—

1. Erection or improvement of agricultural buildings and shelters for the temporary housing and sheltering of out-wintered livestock.
2. Works associated with agricultural buildings, including yards, hard standings, dungsteads, and silos (other than grain silos).
3. Investment in land management, including initial grassland improvement works for the restoration of degraded land and the control of bracken.
4. Slurry stores.
5. Arterial drainage and field drainage.
6. All other forms of general drainage including under drainage, hill drainage and ditching.
7. Provision or improvement of facilities for the organised feeding of out-wintered livestock, including permanently fixed troughs and feed barriers, and associated concrete bases.
8. Provision or improvement of equipment for the handling and treatment of livestock.
9. Planting of shelter belts and the provision of fences, hedges, walls, gates or stock-grids.
10. Provision or improvement of amenities, including water supplies, mains electricity connections, electricity generators or gas supplies.
11. Provision of electrical equipment.
12. Provision or improvement of access tracks to land improvement areas, roads, bridges, culverts or boat slips.”.

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(a) Paragraph 11A was inserted by S.S.I. 2008/58.

#### **Transitional and saving provision**

4.—(1) The principal Scheme as varied by this Scheme applies to any application for grant made under the principal Scheme but not determined by the Scottish Ministers before 6th April 2015.

(2) In respect of an application for grant made under the principal Scheme and determined by the Scottish Ministers before 6th April 2015, the principal Scheme continues to have effect as if the amendments made by this Scheme had not been made.

St Andrew's House,  
Edinburgh  
4th March 2015

*AILEEN McLEOD*  
Authorised to sign by the Scottish Ministers

## EXPLANATORY NOTE

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

The Crofting Counties Agricultural Grants (Scotland) Scheme 2006 (S.S.I. 2006/24) (“the 2006 Scheme”) enables the Scottish Ministers to make grants to crofters and certain occupiers and tenants of land in respect of—

- (a) specified operations carried out by them for the purpose of aiding and developing agricultural production on crofts or holdings (Part 2 of, and the Schedule to, the 2006 Scheme); and
- (b) contributions made by them under such agreements as are referred to in section 47 of the Roads (Scotland) Act 1984 towards the expenses of providing cattle grids (Part 3 of the 2006 Scheme).

This Scheme varies the 2006 Scheme by—

- (a) inserting definitions of applicable EU instruments (as the 2006 Scheme will continue to be funded, in part, from the European Agricultural Fund for Rural Development) (paragraph 3(2));
- (b) in relation to restrictions on payments of grants under Part 2 of, and the Schedule to, the 2006 Scheme—
  - (i) substituting a new paragraph 6, to update the drafting and references to provisions of applicable EU instruments, in relation to restrictions on payments of grants under that Part of the 2006 Scheme (paragraph 3(3));
  - (ii) substituting a new paragraph 7, to revise the amount of grant payable under that Part of the 2006 Scheme (also paragraph 3(3)); and
  - (iii) to update the list of eligible operations in paragraph 1 of the Schedule in relation to that Part of the 2006 Scheme (paragraph 3(8));
- (c) in relation to restrictions on payments of grants under Part 3 of the 2006 Scheme, substituting a new paragraph 10, to revise the amount of grant payable under that Part of the 2006 Scheme (paragraph 3(4)); and
- (d) inserting a new Part 3A (paragraphs 10A to 10C), to make provision for the payment of grants in respect of the establishment of grazing committees in relation to a common grazing (paragraph 3(5)), with consequential amendments made to paragraphs 11A and 13 of the 2006 Scheme by paragraph 3(6) and (7).

Paragraph 4 makes a transitional and saving provision in respect of applications for grant made under the 2006 Scheme before 6th April 2015.

A business and regulatory impact assessment has been prepared for this Scheme and will be placed in the Scottish Parliament Information Centre. A copy can be obtained from the Scottish Government Directorate for Agriculture, Food and Rural Communities, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD and online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

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