

1988 No. 481 (S.49)

EUROPEAN COMMUNITIES

The Scottish Islands Agricultural Development  
Programme Regulations 1988

<i>Made</i>	- - - -	<i>11th March 1988</i>
<i>Laid before Parliament</i>		<i>15th March 1988</i>
<i>Coming into force</i>		<i>5th April 1988</i>

The Secretary of State, being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to the common agricultural policy of the European Economic Community(b), in exercise of the powers conferred on him by the said section 2(2) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation, extent and commencement**

1. These Regulations, which may be cited as the Scottish Islands Agricultural Development Programme Regulations 1988, shall apply only to the Scottish Islands and shall come into force on 5th April 1988.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“agricultural development” means any farm development measures, livestock development measures, agricultural infrastructure measures and agricultural support measures; “agriculture” includes horticulture, seed growing, dairy farming, the breeding and keeping of livestock, the use of land as grazing land or meadow land, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” and references to farming shall be construed accordingly; “apportioned land” means land which is apportioned from the common grazings and has been previously improved by surface or other treatment;

“approved” means approved in writing by the Secretary of State and “approve” and “approval” shall be construed accordingly;

“croft” has the same meaning as in section 3 of the Crofters (Scotland) Act 1955(c);

“eligible person” means a person who is an owner or tenant (including crofting tenant or sub-tenant) of a farm and any person authorised to act on his behalf;

“farm” includes an agricultural holding within the meaning of section 1 of the Agricultural Holdings (Scotland) Act 1949(d), a croft and any holding within the meaning of sections 2 and 32 of the Small Landholders (Scotland) Act 1911(e);

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(a) 1972 c.68; section 2 is subject to Schedule 2 to that Act and is to be read with sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (c.21) (as inserted by section 54 of the Criminal Justice Act 1982 (c.48)) and S.I. 1984/526.

(b) S.I. 1972/1811.

(c) 1955 c.21; section 3 was amended by the Crofters (Scotland) Act 1961 (c.58), Schedule 1, Part II, paragraph 9.

(d) 1949 c.75.

(e) 1911 c.49.

“financial assistance” means payment by way of environment management payment, grant, management premium, premium or stock health improvement payment;

“hill land” means any land other than inbye land;

“inbye land” means any land which is or has been enclosed or delineated by fences, dykes, hedges, etc. (including apportioned land) and which has been used for cultivation, production of forage or closely controlled grazing by stock;

“livestock” includes any creature kept for the production of food, wool, skins, or fur or for the purposes of its use in the farming of the land;

“the Regulation of the Council” means Regulation (EEC) No. 1402/86 of the Council of the European Communities of 6 May 1986(a);

“Scottish Islands” means all islands off the northern and western coasts of Scotland with the exception of the Western Isles Islands Area;

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

“Western Isles Islands Area” means the area established by section 1(3) of the Local Government (Scotland) Act 1973(b).

(2) References in these Regulations to a numbered regulation or Schedule shall be construed as a reference to the regulation or Schedule so numbered in these Regulations.

#### **Financial assistance for agricultural development**

3.—(1) Subject to the provisions of these Regulations and provided he is satisfied that it is otherwise expedient for him to do so, the Secretary of State may provide financial assistance to an eligible person—

- (a) towards the cost of any farm development measure specified in Part I of Schedule 1;
- (b) by way of environment management payments in respect of the categories of land specified in Part II of Schedule 1;
- (c) towards the cost of any livestock development measure in relation to the categories of animals specified in Parts I and II of Schedule 2;
- (d) by way of stock health improvement payments in respect of the category of animals specified in Part III of Schedule 2; and
- (e) towards the cost of any agricultural infrastructure or support measure specified in Schedule 3.

(2) The Secretary of State may determine the manner and timing of payment of financial assistance.

#### **Farm plans**

4.—(1) A farm plan submitted for approval shall be set out in such form as the Secretary of State may from time to time require and the eligible person shall furnish all such particulars and information relating thereto as the Secretary of State may require, and in particular—

- (a) sufficient information to show that the plan relates to an agricultural business;
- (b) a description of the farm at the time of submission of the plan for approval and of the land to which the plan relates;
- (c) plans where applicable to—
  - (i) rationalise his farming operations;
  - (ii) increase the efficiency of the farm;
  - (iii) improve the quality of livestock;
  - (iv) alter and provide for farm buildings;
  - (v) diversify into tourism, small industry, or other activities; and
  - (vi) conserve or enhance the environment;

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(a) O.J. No. L128, 14.5.86, p. 9.

(b) 1973 c.65.

- (d) an indication of the measures to be taken and, in particular, of the capital investments necessary in order to achieve the objectives of the plan and the time scale envisaged for the development.

(2) The duration of the agricultural development shall be such period as is specified in the plan, being a period not exceeding 5 years and normally not less than 3 years from the date of approval of the plan.

#### **Approval of farm plan**

5.—(1) The Secretary of State shall only approve the farm plan insofar as it is aimed at the encouragement of agricultural development in accordance with the Regulation of the Council and is to be carried out by or on behalf of the eligible person.

(2) Subject to paragraph (1) above, the Secretary of State, as he thinks fit, may refuse to approve the plan or may approve the farm plan in whole or in part for the purposes of financial assistance and may make his approval subject to such conditions as he may impose.

#### **Restrictions on approval of farm plan**

6. A farm plan shall not be approved under these Regulations unless the Secretary of State—

- (a) is satisfied that the measures to be undertaken under the plan will improve the development of the farm, will achieve the objectives set out in the plan and are viable; and
- (b) has had regard to the provisions of section 17 of the Agriculture Act 1986(a).

#### **Variation of farm plans**

7. The Secretary of State may only in exceptional circumstances agree the variation of an approved plan and then only within approved notified expenditure limits.

#### **Amount of financial assistance**

8.—(1) Grant shall be payable, in respect of expenditure on any farm development measure set out in column 1 of Part I of Schedule 1, at the percentage rate specified in relation to that measure in column 2 of that Part.

(2) Where any farm plan includes specific provision for an environmental area identified therein, an environment management payment shall be made, in respect of the category of land set out in column 1 of Part II of Schedule 1, at the rate specified in relation to that category in column 2 of that Part.

(3) A premium shall be payable, in respect of any livestock development measure relative to the category of animal set out in column 1 of Parts I and II of Schedule 2, at the rate specified in relation to that category in column 2 of those Parts.

(4) A stock health improvement payment shall be made, in respect of the category of animal set out in column 1 of Part III of Schedule 2, at the rate specified in column 2 of that Part.

(5) Grant shall be payable, in respect of expenditure on any agricultural infrastructure and support measure set out in column 1 of Schedule 3, at the percentage rate specified in relation to that measure in column 2 of that Schedule.

#### **Management premium**

9.—(1) On approval of a farm plan detailing any of the farm development measures set out in column 1 of Part I of Schedule 1, the eligible person will qualify for a management premium amounting to the percentage of the approved cost specified in relation to that measure in column 3 of that Part, which premium will be payable in 2 instalments—

- (a) two thirds at the commencement of the farm plan; and
- (b) the remaining one third when the farm plan has been completed and the targets have been met.

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(a) 1986 c.49.

(2) On approval of a farm plan detailing livestock improvement measures relative to any of the categories of animal set out in column 1 of Parts I and II of Schedule 2, the eligible person will qualify for a management premium amounting to the sum specified in relation to that category in column 3 of those Parts, which management premium will be payable in 2 instalments—

- (a) one half at the end of the second year of the farm plan; and
- (b) the remaining half when the livestock development measures have been completed and the targets have been met.

#### **Maximum limits of financial assistance**

10.—(1) Financial assistance in respect of each farm plan shall be limited in accordance with the provisions of paragraph (2) below.

(2)(a) Financial assistance under Part I of Schedule 1 shall not exceed £20,000, and within that figure—

- (i) assistance relative to tractors (item 8) shall not exceed £5,000; and
- (ii) the total management premium payable under that Part shall not exceed £3,750;
- (b) financial assistance under Part II of Schedule 1 shall not normally exceed £4,000;
- (c) financial assistance under Schedule 2 shall not exceed—

(i) £7,500 for a 3 year plan; and

(ii) £10,000 for a 5 year plan;

and within those figures assistance under Part III of that Schedule shall not exceed £1,000;

(d) financial assistance under Schedule 3 shall not exceed—

(i) £18,000 in respect of item 1;

(ii) £9,000 in respect of item 2; and

(iii) £10,000 in respect of item 3.

#### **Standard costs**

11. In such cases, and subject to such conditions, as the Secretary of State may from time to time determine, the cost of any work or facility or the amount of any other cost or expenditure shall, if the eligible person so elects, be based on such standard cost or amount as the Secretary of State may from time to time fix with the approval of the Treasury.

#### **Powers of entry and inspection**

12.—(1) For the purposes of these Regulations and in particular for the purpose of securing that financial assistance under these Regulations is made in proper cases only, any person duly authorised in that behalf by the Secretary of State may, upon production if so required of his appointment or authority, at all reasonable times enter upon and inspect any land, and may—

- (a) inspect any premises, plant and machinery, equipment or livestock in respect of which financial assistance under these Regulations has been made or claimed;
- (b) require the occupier to furnish for inspection any book, account or other record in his possession or under his control which the authorised person considers necessary to substantiate eligibility for financial assistance under these Regulations.

(2) In exercising the power conferred on him by this regulation, an authorised person may be accompanied by such persons acting under his instructions as appear to him to be necessary and, in relation to the inspection of documents, he shall be entitled to take such copies or extracts therefrom as he may consider necessary.

#### **Reduction or withholding of financial assistance**

13.—(1) The Secretary of State may reduce or withhold any financial assistance under these Regulations in any case where—

- (a) assistance in respect of expenditure towards which such financial assistance is claimed has been or may be given otherwise than under these Regulations; or
- (b) the carrying out or provision of the development measure towards the expenditure on which such financial assistance is claimed appears to the Secretary of State to

frustrate the purposes served by assistance previously given out of money provided by Parliament or the European Economic Community; or

- (c) he considers that the expenditure towards which such financial assistance is claimed is excessive, having regard to the development measure carried out or provided and to which the claim relates; or
- (d) the carrying out of the development measure towards the expenditure on which such financial assistance is claimed has been effected in a way which appears to the Secretary of State to have destroyed or damaged the natural beauty and amenity of the countryside to an extent which cannot be justified by any resulting agricultural benefit; or
- (e) he considers that in the circumstances current at the time of the application other applications are to be preferred.

(2) Before reducing or withholding any financial assistance under the provisions of this regulation, the Secretary of State shall give to any person whose grant it is proposed to reduce or withhold a written notification of the reasons for the action proposed to be taken by the Secretary of State.

#### **Revocation of approval and recovery of financial assistance**

14. If at any time after the Secretary of State has approved a farm plan or paid financial assistance under these Regulations it appears to him that—

- (a) any condition subject to which the approval was given or the financial assistance was paid has not been complied with, or the targets have not been met; or
- (b) any work or facility in respect of expenditure on which financial assistance has been paid has been badly done or provided, or has been or is being unreasonably delayed or is unlikely to be completed; or
- (c) the eligible person gave information on any matter relevant to the giving of the approval or the making of the payment which was false or misleading in a material respect;

the Secretary of State may revoke the approval, in whole or in part and, where any financial assistance has been paid, may recover on demand an amount equal to the financial assistance which has been so paid or such part thereof as he may specify; but before revoking an approval or making a demand under the preceding provisions of this regulation, the Secretary of State shall give to any person to whom any such financial assistance would be payable or from whom any such amount would be recoverable a written notification of the reasons for the action proposed to be taken by him.

#### **False statements**

15. If the eligible person, for the purposes of obtaining for himself or any other person any financial assistance under these Regulations, knowingly or recklessly makes a false statement, he shall be liable on summary conviction to a fine not exceeding £2,000.

#### **Duration of Regulations**

16.—(1) These Regulations shall cease to have effect on 7th March 1993.

(2) The provisions of paragraph (1) shall not prejudice any criminal proceedings in respect of an offence under regulation 15.

(3) Where circumstances have occurred before 7th March 1993 which would have entitled the Secretary of State to reduce or withhold financial assistance, revoke approval or recover financial assistance already paid, the Secretary of State shall after that date be empowered to do so as if these Regulations were still in force.

New St. Andrew's House, Edinburgh  
11th March 1988

*Sanderson of Bowden*  
Minister of State,  
Scottish Office

# SCHEDULE 1

Regulations 3(1),  
8, 9 and 10

## PART I

### FARM DEVELOPMENT MEASURES

<i>Column 1</i> <i>Work or facility</i>	<i>Column 2</i> <i>Rate of grant</i>	<i>Column 3</i> <i>Management premium</i>
1. Land improvement works on inbye land only - including reseeding, reconditioning, laying down permanent pasture and drainage.	60%	15%
2. Provision of fencing on inbye land and hill land.	60%	15%
3. Provision of dykes and shelter belts on inbye land and hill land.	70%	15%
4. Provision, replacement or improvement of livestock accommodation (other than accommodation for dairy cows, pigs and poultry), storage sheds, electricity and water supplies, fanks and dippers, stock handling facilities and horticultural buildings.	45%	15%
5. Provision, replacement or improvement of hard standings, roads, piers and jetties for farm use.	45%	15%
6. Provision, replacement or improvement of buildings and related structures for farm, tourism, crafts and other complementary activities.	45%	15%
7. Provision of systems for storage and disposal of farm waste.	60%	15%
8. Provision or replacement of tractors (which shall not be used for hire or reward except as authorised under an approved plan).	25%	NIL
9. Forage machinery, forage harvesters, mowers, buckrakes and silage trailers.	25%	NIL
10. Cultivation machinery.	25%	NIL

## PART II

### ENVIRONMENT MANAGEMENT PAYMENTS

<i>Category of land</i>	<i>Payment per hectare</i>
1. Inbye land for traditional winter keep.	£90
2. Inbye land other than for traditional winter keep.	£60
3. Hill land.	£30

## SCHEDULE 2

Regulations 3(1),  
8, 9 and 10

### PART I

#### LIVESTOCK DEVELOPMENT MEASURES - CATTLE

<i>Column 1</i> <i>Category of animal</i>	<i>Column 2</i> <i>Premium to be paid on first calving</i>	<i>Column 3</i> <i>Management premium</i>
	£	£
1. Home bred heifer.	150	100
2. Purchased heifer at bulling stage.	100	50
3. Purchased in-calf heifer.	50	25

### PART II

#### LIVESTOCK DEVELOPMENT MEASURES - SHEEP

<i>Column 1</i> <i>Category of animal</i>	<i>Column 2</i> <i>Premium to be paid on introduction to flock</i>	<i>Column 3</i> <i>Management premium</i>
	£	£
1. Home bred gimmer.	10	5
2. Purchased gimmer.	5	2

### PART III

#### STOCK HEALTH IMPROVEMENT PAYMENTS

<i>Column 1</i> <i>Category of animal</i>	<i>Column 2</i> <i>Rate of payment</i>	<i>Column 3</i> <i>Management premium</i>
	£	£
Sheep, goats and farmed deer	1 per annum per animal	NIL

# SCHEDULE 3

Regulations 3(1),  
8 and 10

## AGRICULTURAL INFRASTRUCTURE AND SUPPORT MEASURES

<i>Column 1</i> <i>Work or facility</i>	<i>Column 2</i> <i>Rate of grant</i>
1. The provision of communal jetties and slipways.	90%
2. The provision of shore-based facilities associated with item 1 above.	90%
3. Provision or improvement of housing on holdings of not less than 10 hectares, which are actively worked and which are either—	50%
(a) crofts;	
(b) holdings, occupied by persons of similar economic status to crofters, which fall within the terms of paragraph 3(b) or (c) of the Crofting Counties Agricultural Grants (Scotland) Scheme 1988(a); or	
(c) holdings of no more than 30 hectares situated on the Isles of Arran, Bute and Cumbrae.	

(a) S.I. 1988/559.



## EXPLANATORY NOTE

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

These Regulations implement Council Regulation (EEC) No. 1402/86 (O.J. No. L128, 14.5.86, p.9) which authorises a programme under the provisions of Article 18 of Council Regulation (EEC) No. 797/85 (O.J. No. L93, 30.3.85, p.1) for measures to encourage agriculture in the Scottish Islands off the northern and western coasts with the exception of the Western Isles (Outer Hebrides).

The Regulations provide for financial assistance to be given towards the cost of farm development measures, livestock development measures and agriculture infrastructure or support measures set out in a farm plan. To benefit for assistance the applicant must submit to the Secretary of State for approval a farm plan (regulation 4). The farm development measures, livestock development measures and agricultural infrastructure or support measures are respectively specified in Schedules 1, 2 and 3. The farm plan must indicate that it will increase the efficiency of the farm, improve the quality of the livestock and conserve or enhance the environment (regulation 4). Approval of the farm plan can be subject to conditions (regulation 5).

The Regulations also—

- (a) impose certain restrictions on the approval of farm plans (regulation 6);
- (b) limit the variation of the plan to certain exceptional circumstances (regulation 7);
- (c) set out the amount of the financial assistance available (regulation 8);
- (d) provide for payment of a management premium (regulation 9);
- (e) set out the maximum limits of financial assistance (regulation 10);
- (f) provide for standard costs (regulation 11);
- (g) confer a power of inspection and right of entry (regulation 12);
- (h) provide for the reduction or withholding of financial assistance in circumstances where it would otherwise be payable (regulation 13);
- (i) provide for the revocation of approval and the recovery of financial assistance paid (regulation 14); and
- (j) create an offence punishable on summary conviction with a maximum fine of £2,000 of knowingly or recklessly making a false statement to obtain financial assistance (regulation 15).

These Regulations will cease to have effect on 7th March 1993 (regulation 16).