
STATUTORY INSTRUMENTS

1997 No. 829

AGRICULTURE

The Farm Woodland Premium Scheme 1997

Approved by both Houses of Parliament

Made - - - - 13th March 1997

Coming into force in accordance with paragraph 1

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred on them by section 2 of the Farm Land and Rural Development Act 1988(1) and of all other powers enabling them in that behalf, with the approval of the Treasury, hereby make the following Scheme of which a draft has been laid before, and approved by resolution of, each House of Parliament:

Title, commencement and extent

1.—(1) This Scheme may be cited as the Farm Woodland Premium Scheme 1997 and shall come into force on the day after the day on which it is made or 1st April 1997 if later.

(2) This Scheme shall apply to Great Britain.

Interpretation

2.—(1) In this Scheme unless the context otherwise requires—

“agricultural” shall be construed, in relation to England and Wales, in accordance with section 109(3) of the Agriculture Act 1947(2) and, in relation to Scotland, in accordance with section 86 of the Agriculture (Scotland) Act 1948(3), except that the expression “agricultural use” shall have the same meaning as in section 2(6) of the Farm Land and Rural Development Act 1988; “agricultural business” means a business consisting in, or such part of a business as consists in, the pursuit of eligible agricultural activities and includes a business consisting in, or such part of a business as consists in—

(a) permitting another person by licence; or

(b) entitling another person by lease for a term of less than 12 months,

to use the land for eligible agricultural activities where the appropriate Minister is satisfied that the licensor or, as the case may be, the lessor, carries out or is to carry out, whether personally

(1) 1988 c. 16. The expression “the appropriate authority” upon whom the powers of section 2 are conferred is defined in section 2(6) and 1(5) of that Act and is to be read with the definition of “the appropriate Minister” in those sections. Section 2 was amended, in relation to Scotland, by section 3(2) of the Crofter Forestry (Scotland) Act 1991 (c. 18).

(2) 1947 c. 48.

(3) 1948 c. 45.

or by a manager, during the term of the licence or the period of 12 months commencing on the date the lease commences, as the case may be, a significant degree of management of that land; “application” means application for grant under this Scheme and “applicant” shall be construed accordingly;

“the appropriate Minister” means, in relation to England, the Minister of Agriculture, Fisheries and Food, and in relation to Scotland and Wales, the Secretary of State;

“the appropriate nature conservancy council” means—

- (i) in relation to land in England, the Nature Conservancy Council for England established by section 128 of the Environmental Protection Act 1990 (4);
- (ii) in relation to land in Wales, the Countryside Council for Wales established by section 128 of the Environmental Protection Act 1990; and
- (iii) in relation to land in Scotland, Scottish Natural Heritage established by section 1 of the Natural Heritage (Scotland) Act 1991(5);

“arable land” means eligible land which falls within the definition of “eligible land” in the Arable Area Payments Regulations 1996(6);

“broadleaved trees” does not include trees which are likely to be harvested within 30 years of planting;

“common grazing” means a common grazing in Scotland;

“conversion plan” means a plan for the conversion of eligible land to woodlands by planting or natural regeneration;

“converted land” means eligible land converted from agricultural use to use for woodlands in accordance with a conversion plan;

“Council Regulation 3508/92” means Council Regulation (EEC) No. 3508/92(7) establishing an integrated administration and control system for certain Community aid schemes as last amended by Council Regulation (EC) No. 2466/96(8);

“designated maps” means—

- (a) in relation to England, the 3 volumes of maps numbered 1 to 3, each such volume being marked “volume of maps of less-favoured farming areas in England” and with the number of the volume, dated 20th May, 1991, signed and sealed by the Minister of Agriculture, Fisheries and Food and deposited at the offices of the Ministry of Agriculture, Fisheries and Food at Nobel House, 17 Smith Square, London SW1P 3JR;
- (b) in relation to Wales, the 2 volumes of maps numbered 1 and 2, both volumes being marked “volume of maps of less-favoured farming areas in Wales”, and with the number of the volume, dated 20th May, 1991, signed by the Secretary of State for Wales and deposited at the offices of the Welsh Office Agriculture Department at Cathays Park, Cardiff CF1 3NQ;
- (c) in relation to Scotland, the 4 maps numbered 1 to 4, each such map being marked “map of less-favoured farming areas in Scotland” and with the number of the map, dated 15th May, 1991, signed by the Secretary of State for Scotland and deposited at the offices of the Scottish Office Agriculture, Environment and Fisheries Department at Pentland House, 47 Robb’s Loan, Edinburgh EH14 1TY;

“disadvantaged land” (except in the expression “severely disadvantaged land”) means—

(4) 1990 c. 43.

(5) 1991 c. 28.

(6) S.I. 1996/3142.

(7) OJ No. L 355, 5.12.1992, p.1.

(8) OJ No. L 335, 24.12.96, p.1.

- (a) in relation to land situated in England and Wales the land shown coloured blue on the designated maps, and
- (b) in relation to land situated in Scotland, land shown coloured blue or coloured pink on the designated maps, and—
 - (i) which is in the opinion of the appropriate Minister inherently suitable for extensive livestock production but not for the production of crops in quantity materially greater than that necessary to feed such livestock as are capable of being maintained on such land, and
 - (ii) whose agricultural production is in the opinion of the appropriate Minister restricted (but not severely restricted) in its range by, or by any combination of, soil, relief, aspect or climate;

“eligible agricultural activity” does not include the use of land for the grazing of creatures which are not livestock;

“eligible land”, in relation to an application, means land which has been used for eligible agricultural activities for at least the three years before the date of the application;

“eligible Scots Pine” means native Scots pine planted within any area of Scotland where the presence of native Scots Pine once occurred naturally;

“grazings committee” means a committee appointed under section 47(1) or (3) of the Crofters (Scotland) Act 1993(9) and includes a grazings constable appointed under section 47(3) thereof;

“holding” has the meaning it has in Article 1 of Council Regulation 3508/92, save that where—

- (a) an applicant—
 - (i) permits another person by licence, or
 - (ii) entitles another person by lease for a term of less than twelve months, to use land for eligible agricultural activities; and
- (b) the appropriate Minister is satisfied that the applicant carries out or is to carry out, whether personally or by a manager, during the term of the licence or in the period of 12 months commencing on the date the lease commences, as the case may be, a significant degree of management of that land,

any such land shall be deemed to form part of that applicant’s holding;

“improved land”, in relation to an application, means eligible land (other than arable land) which consists of one of the following—

- (a) land which has been grassland for the three years prior to the date of the application and in respect of which the Forestry Commissioners intend to make payment of Better Land Supplement under the Woodland Grant Scheme; or
- (b) land which for the three years prior to the date of the application has been used for the growing of any agricultural crop other than grass;

“initial entrant” means a person whose application is approved under paragraph 3(1);

“livestock” has the same meaning, in relation to England and Wales, as it has in section 109(3) of the Agriculture Act 1947, and in relation to Scotland, in section 86 of the Agriculture (Scotland) Act 1948;

“nature reserve” means—

- (a) land subject to an agreement under section 16 of the National Parks and Access to the Countryside Act 1949⁽¹⁰⁾ that it shall be managed as a nature reserve; or
- (b) land declared to be a national nature reserve by the appropriate nature conservancy council pursuant to section 35 of the Wildlife and Countryside Act 1981⁽¹¹⁾;

“nurse tree” means a coniferous tree which is planted to provide protection to tree seedlings and which is removed from the land within 10 years of planting;

“occupier” means—

- (a) a person who occupies land—
 - (i) as freehold owner in England and Wales;
 - (ii) as proprietor of the dominium utile in Scotland; or
 - (iii) as lessee; or
- (b) in relation to a common grazing, the grazings committee for that common grazing, and references to “occupies” and “occupation” shall be construed accordingly;

“planting” includes the sowing of tree seeds;

“severely disadvantaged land” means—

- (a) in relation to land situated in England and Wales—
 - (i) the land shown coloured pink on the designated maps; or
 - (ii) land situated in the Isles of Scilly; and
- (b) in relation to land situated in Scotland, land shown coloured pink on the designated maps and—
 - (i) which is in the opinion of the appropriate Minister inherently suitable for extensive livestock production but not for the production of crops in quantity materially greater than that necessary to feed such livestock as are capable of being maintained on such land, and
 - (ii) whose agricultural production is in the opinion of the appropriate Minister severely restricted in its range by, or by any combination of, soil, relief, aspect or climate;

“successor” means a person whose application is approved under paragraph 3(2);

“unimproved land” means eligible land other than arable land and improved land;

“the Woodland Grant Scheme” means the scheme under which the Forestry Commissioners enter into agreements to make grants pursuant to section 1 of the Forestry Act 1979⁽¹²⁾ for and in connection with the use and management of land for forestry purposes.

- (2) Except in Schedule 3 to this Scheme, any reference in this Scheme to—
 - (a) a numbered paragraph is a reference to the paragraph in this Scheme so numbered; and
 - (b) a numbered Schedule (with no corresponding reference to a specific Act) is a reference to the Schedule to this Scheme so numbered.

⁽¹⁰⁾ 1949 c. 97. Section 16 is to be read with section 15A of that Act, inserted by paragraph 1 of Schedule 9 to the Environmental Protection Act 1990 (c. 43).

⁽¹¹⁾ 1981 c. 69. Section 35 is to be read with section 27A of that Act, inserted by paragraph 11 of Schedule 9 to the Environmental Protection Act 1990 (c. 43).

⁽¹²⁾ 1979 c. 21. Section 1 was amended by the Crofter Forestry (Scotland) Act 1991 (c. 18) section 3(1). The Forestry Commissioners were continued in existence by the Forestry Act 1967 (c. 10), s1(1), and are constituted under s. 2 of that Act.

Approval of applications

3.—(1) Subject to the provisions of this Scheme, the appropriate Minister may approve an application in relation to any eligible land if the applicant—

- (a) enters into a written agreement with the Forestry Commissioners for the conversion of the land to woodlands, under the Woodland Grant Scheme;
- (b) submits to the appropriate Minister a conversion plan with respect to the land that is consistent with that agreement;
- (c) either—
 - (i) occupies the land, and carries on, whether personally or by a manager, an agricultural business on a holding which includes that land, or
 - (ii) is, where the land comprises a common grazing, the grazings committee for that common grazing; and
- (d) enters into the undertakings specified in paragraph 8.

(2) Subject to the provisions of this Scheme, the appropriate Minister may approve an application in respect of land comprising converted land, or eligible land in relation to which a conversion plan remains to be carried out, if the applicant—

- (a) occupies the land in succession to a previous occupier who was, in relation to that land, an initial entrant or successor; and
 - (b) has submitted the application within 12 months after the termination of occupation of that previous occupier.
- (3) An application shall not be taken to be approved unless either—
- (a) the appropriate Minister has given approval of it in writing to the Forestry Commissioners and the Forestry Commissioners have informed the applicant in writing of that approval; or
 - (b) the appropriate Minister has given approval of it in writing to the applicant.

Application for grant

4. Every application shall be made in such form as the appropriate Minister may require.

Restrictions on approval of application: general

5.—(1) The appropriate Minister shall not approve an application which relates to land which—

- (a) is registered as common land pursuant to the Common Registration Act 1965⁽¹³⁾;
- (b) forms part of a nature reserve;
- (c) is occupied by a lessee unless the owner of that land has given his consent in writing to the occupier's application in such form as the appropriate Minister may require; or
- (d) is occupied by a grazings committee unless that committee, pursuant to section 50 of the Crofters (Scotland) Act 1993⁽¹⁴⁾, has obtained the approval of the Crofters Commission and the consent of the landlord, and that consent has been entered in the Register of Crofts referred to therein.

(2) For the purposes of sub-paragraph (1)(c) above, “owner” means, in England or Wales, freehold owner, and in Scotland, proprietor of the *dominium utile*, and where land is occupied by a sub-tenant, includes a superior tenant.

⁽¹³⁾ 1965 c. 64.

⁽¹⁴⁾ 1993 c. 44.

(3) The appropriate Minister shall not approve an application under paragraph 3(1) which relates to land which, in the opinion of that Minister, has been converted to woodlands or had carried out on it any operations relating to such conversion, whether or not such conversion or operations were carried out in pursuance of a written agreement made with the Forestry Commissioners under the Woodland Grant Scheme.

(4) The appropriate Minister shall not approve an application which relates to land—

- (a) which is to be planted with trees as a condition of a felling licence granted by the Forestry Commissioners under section 10 of the Forestry Act 1967⁽¹⁵⁾;
- (b) on which trees have been felled without the authority of a felling licence granted under Part II of the Forestry Act 1967 in circumstances where section 9(1) of that Act applies so as to require such a licence;
- (c) which is to be planted with trees pursuant to a restocking notice served by the Forestry Commissioners under section 17A of the Forestry Act 1967⁽¹⁶⁾; or
- (d) which is to be planted with trees pursuant to a notice served by the Forestry Commissioners under section 24(2) of the Forestry Act 1967.

(5) The appropriate Minister shall not approve an application which relates to unimproved land unless that land is also either disadvantaged land or severely disadvantaged land.

(6) The appropriate Minister shall not approve an application which relates to any land which is to be converted to woodlands—

- (a) where the converted land is also intended for agricultural use, other than the harvesting of an agricultural crop growth as a result of planting woodland by sowing a mixture of tree seeds and seeds of an agricultural crop;
- (b) intended to be managed as coppice, unless that Minister has a statement in writing from the appropriate nature conservancy council to the effect that such management will enhance the conservation of wildlife; or
- (c) where the trees, other than nurse trees, are intended to be used as Christmas trees.

(7) The appropriate Minister shall refuse to approve an application which relates to any land if it appears to that Minister that the conversion to woodlands of that land would frustrate the purposes of any assistance previously given or to be given out of money provided by Parliament or the European Community, or that the payment of grant under this Scheme in respect of that land would duplicate any such assistance.

Restriction on approval of applications: resumed land

6.—(1) The appropriate Minister shall not approve an application which relates to land in England or Wales, possession of which was obtained from a tenant of that land by means of a notice to quit—

- (a) to which Case B in Part I of Schedule 3 to the Agricultural Holdings Act 1986⁽¹⁷⁾ applied; or
- (b) in respect of which a counter-notice could have been served under section 26(1)(b) of the Agricultural Holdings Act 1986 unless no such counter-notice was served or unless the Agricultural Land Tribunal consented to the operation of the notice to quit on the grounds set out in section 27(3)(e) of that Act (with or without other grounds).

(2) The appropriate Minister shall not approve an application which relates to land in Scotland, possession of which was obtained from a tenant of that land by means of—

⁽¹⁵⁾ 1967 c. 10.

⁽¹⁶⁾ Inserted by section 1(a) of the Forestry Act 1986 (c. 30).

⁽¹⁷⁾ 1986 c. 5. Schedule 3 was amended by the Agricultural Holdings (Amendment) Act 1990 (c. 15).

- (a) a notice to quit to which section 22(2)(b) of the Agricultural Holdings (Scotland) Act 1991⁽¹⁸⁾ applied;
- (b) a notice to quit in respect of which a counter-notice could have been served under section 22(1) of the Agricultural Holdings (Scotland) Act 1991 unless no such counter-notice was served or unless the Scottish Land Court consented to the operation of the notice to quit on the grounds set out in section 24(1)(d) of that Act (with or without other grounds);
- (c) an authorisation given by the Scottish Land Court under section 20(1) of the Crofters (Scotland) Act 1993⁽¹⁹⁾ to resume a croft or part of a croft;
- (d) an authorisation given by the Scottish Land Court under section 20(4) of the Crofters (Scotland) Act 1993 to resume any land forming part of a common grazing; or
- (e) a notice served pursuant to a resumption clause in a lease.

Restrictions on approval of applications: area limits

7.—(1) The appropriate Minister shall not approve under paragraph 3(1) an application if it concerns the conversion to woodlands of less than 1 hectare of eligible land.

(2) Save in the case of an application relating to a common grazing, the appropriate Minister shall not approve an application if he decides that the application concerns the conversion to woodlands of more than—

- (a) 40 hectares of unimproved land; or
- (b) 200 hectares of eligible land.

(3) In considering whether to make the decision referred to in sub-paragraph (2) above, the appropriate Minister may take into account any areas of land converted or to be converted to woodlands pursuant to an approval of any other application relating to land which it would be reasonable for him to regard as falling within the same holding, were this Scheme a Community scheme as defined in Article 1 of Council Regulation 3508/92.

(4) For the purposes of paragraph (3) above, the term “application” shall include an application for grant under a statutory arrangement similar to this Scheme for the payment of grant in respect of the conversion of agricultural land situated in Northern Ireland to woodland.

(5) In the case of an application relating to a common grazing, the appropriate Minister shall not approve an application which, whether by itself or when taken with any other application relating to the common grazing, concerns the conversion to woodlands of more than 100 hectares of the eligible land comprised in that common grazing.

Requirements for persons taking part in the Scheme

8. An applicant shall undertake to the appropriate Minister that he or his personal representatives or, in Scotland, his executors, will—

- (a) carry out the work described in the conversion plan relating to the land which the application concerns, within the times and in the manner specified in the plan and to the satisfaction of the appropriate Minister;
- (b) maintain any converted land forming part of that land in accordance with good forestry practice, to the satisfaction of the appropriate Minister—
 - (i) in the case of converted land which in the appropriate Minister’s view consists of 50 per cent or less by area of broadleaved trees or eligible Scots Pine or a combination

⁽¹⁸⁾ 1991 c. 55.

⁽¹⁹⁾ 1993 c. 44.

- thereof, throughout the period of 20 years, commencing on the first day after the end of the year in which the planting of trees on the plantation concerned is completed or, as the case may be, in which the work necessary to encourage natural regeneration of trees on land comprised in the plantation concerned is completed; or
- (ii) in the case of converted land which in the appropriate Minister's view consists of more than 50 per cent by area of broadleaved trees or eligible Scots Pine or a combination thereof, throughout the period of 30 years, commencing as aforesaid;
- (c) not put any such converted land to agricultural use during the period mentioned in sub-paragraph (b) above, other than the harvesting of an agricultural crop grown as a result of planting woodland by sowing a mixture of tree seeds and seeds of an agricultural crop;
- (d) not manage any such converted land as coppice during that period, unless the appropriate Minister has notified him or them in writing that the land may be so managed to enhance the conservation of wildlife;
- (e) not use the trees on any such converted land, other than nurse trees, as Christmas trees during that period;
- (f) remove any trees specified in the conversion plan to be nurse trees within 10 years of planting;
- (g) save in the case of a common grazing, notify the appropriate Minister in writing—
- (i) of any change in occupation of the eligible land or the converted land which he or they occupy within three months of its occurrence;
- (ii) of the termination of the agricultural business carried on by him or them on the holding which includes that converted land;
- (h) save in the case of a common grazing, furnish such information as to the agricultural business carried on by him or them on the holding which includes converted land which he or they occupy, and as to that converted land, as the appropriate Minister may require to evaluate the effectiveness of this Scheme; and
- (i) in relation to a common grazing, furnish such information as to that common grazing or, as the case may be, the converted land thereon, or as to his or their activities in connection with that common grazing, as the appropriate Minister may require to evaluate the effectiveness of this Scheme.

Grants under this Scheme

9.—(1) Subject to the provisions of this Scheme, the appropriate Minister may make to an initial entrant or a successor, or the personal representatives or, in Scotland, executors of such an initial entrant or successor, grants for abating financial loss which has been or will be suffered in consequence of his or their occupation of converted land.

(2) Subject to sub-paragraph (3) below, grants under sub-paragraph (1) above shall be made annually in relation to the categories of converted land specified in column 1 of Schedule 1 at the rate per hectare specified in column 2 of that Schedule and shall be made in respect of the area of such converted land remaining in the occupation of the claimant at the time the claim for payment is made.

(3) Where an applicant, in his area aid application submitted in relation to any period in respect of which payment is made under this Scheme, counts an area of converted land as set aside for the purposes of the set-aside requirement, the rate payable under this Scheme in relation to that area of converted land in respect of any period for which it is so counted, shall—as provided for in Article 7(2) of Council Regulation 1765/92—not exceed the set-aside payment in relation to that land.

(4) For the purposes of this paragraph—

- (a) “area aid application” means the application provided for by Article 6(1) of Council Regulation 3508/92;
- (b) “set-aside payment” means, in relation to an area of land which is converted land, the compensatory payment provided for in Article 7(5) of Council Regulation 1765/92 which would be made in relation to that area were it not converted land;
- (c) “set-aside requirement” means the requirement to set land aside in accordance with Article 7(1) of Council Regulation (EEC) 1765/92; and
- (d) “Council Regulation 1765/92” means Council Regulation (EEC) No. 1765/92(20) establishing a support system for producers of certain arable crops, as last amended by Council Regulation (EC) 1575/96(21).

Duration and payment of grant

10.—(1) The number of annual payments under paragraph 9 made in respect of any area of converted land of a category specified in column 1 of Schedule 2 shall not exceed the maximum number specified in column 2 of that Schedule in relation to converted land of that category.

(2) For the purposes of this paragraph—

- (a) the description of any area of converted land specified in column 1 of Schedule 2 which applies when the conversion plan has been carried out in relation to that area shall remain applicable to any part of that area so long as any payment under this Scheme is due to be made in relation to that area; and
- (b) for the purposes of ascertaining the description of an area of converted land in accordance with paragraph (a) above, nurse trees shall be ignored.

(3) In respect of each area of converted land—

- (a) the first annual payment shall be made during the twelve months following the payment by the Forestry Commissioners of the first instalment of grant under the Woodland Grant Scheme, in respect of the conversion of that area to woodlands pursuant to the agreement referred to in paragraph 3(1)(a); and
- (b) subsequent annual payments shall be made on 16th October in each year or on such other date or dates in each year as the appropriate Minister may decide.

Claims for grant

11. Every claim for payment under this Scheme shall be made in such form and at such times as the appropriate Minister may require.

Financial limits

12.—(1) When by reason of the total of applications already approved or received, the appropriate Minister is at any time of the opinion that the financial resources which are available for payment of grant under this Scheme during any period are insufficient to satisfy the payment in relation to England, Wales and Scotland, as the case may be, during that period, which would result from the approval of any further application, he may decide—

- (a) that he will not accept for consideration any further application, or request to vary a conversion plan under paragraph 13, until a time subsequently specified by him; or
- (b) that he will cease to approve, or postpone approval or, any such application or request submitted to him.

(20) OJ No. L 181, 1.7.92, p.12.

(21) OJ No. L 206, 16.8.1996, p.1.

- (2) A decision by the appropriate Minister under sub-paragraph (1) above may relate to—
- (a) applications in respect of the conversion to any category of converted land referred to in column 1 of Schedule 1: or
 - (b) applications generally,

and in the case of a decision under sub-paragraph (1)(a) not to accept further applications and to specify a time when further applications may be accepted, shall be published by notice in the London or Edinburgh Gazette, as appropriate.

Variation of conversion plans

13. The occupier of land in respect of which payment of grant is due to be made under this Scheme may, with the prior written agreement of the appropriate Minister, vary the conversion plan with respect to that land in any manner that the Minister may approve consistent with this Scheme, and may thereafter claim payment of grant in respect of the conversion to woodlands in accordance with the plan as so varied.

Withholding and recovery of grant

14.—(1) If at any time after the appropriate Minister has approved an application it appears to that Minister that the applicant, with a view to obtaining payment of grant under this Scheme, has made any statement or furnished any information which is false or misleading in a material respect, the appropriate Minister may—

- (a) reduce or withhold any payment under this Scheme due to the applicant or his personal representatives or, in Scotland, his executors;
- (b) recover from him or them an amount equal to any payment made to him or them under this Scheme or such part thereof as the appropriate Minister may specify;
- (c) recover from a related participant or his personal representatives or, in Scotland, his executors, an amount equal to any payment made to that related participant or those personal representatives or executors under this Scheme or such part thereof as the appropriate Minister may specify; and
- (d) terminate the participation in the Scheme of the applicant or his personal representatives or, in Scotland, his executors.

(2) If, at any time after the appropriate Minister has approved an application it appears to that Minister that—

- (a) the applicant or his personal representatives or, in Scotland, his executors, has without reasonable cause failed to carry out any undertaking given by him pursuant to paragraph 8, or to comply with any other requirement of this Scheme, or
- (b) on account of arrangements (whenever made) of which the appropriate Minister becomes aware he would—were the application made at that first mentioned time—make the decision referred to in paragraph 7(2) in relation to the application,

the appropriate Minister may take one or more of the actions referred to in sub-paragraph (3) below.

(3) The actions referred to in sub-paragraph (2) above are, in relation to an application to which that sub-paragraph relates, to —

- (a) postpone, reduce or withhold any payment under this Scheme due to the applicant or his personal representatives, or in Scotland, his executors;
- (b) recover from him or them an amount equal to any payment made to him or them under this Scheme or such part thereof as the appropriate Minister may specify;

- (c) recover from a related participant or his personal representatives or, in Scotland, his executors, an amount equal to any payment made to that related participant or those personal representatives or executors under this Scheme or such part thereof as the appropriate Minister may specify; and
- (d) terminate the participation in the Scheme of the applicant or his personal representatives or, in Scotland, his executors.

(4) For the purposes of sub-paragraphs (1)(c) and (3)(c) above, a related participant means, in relation to an applicant whose application is approved under paragraph 3(2), any previous occupier, who was, in relation to the land which the application concerns, an initial entrant or a successor.

(5) For the purposes of sub-paragraph (2)(a) above, “reasonable cause” shall be taken to refer to such exceptional circumstances as the appropriate Minister considers justify the failure referred to therein.

(6) Before postponing, reducing, withholding or recovering any payment or terminating participation in the Scheme under this paragraph the appropriate Minister shall—

- (a) give to any person to whom any payment of such grant would be made, or from whom any payment would be recoverable, or the participation of whom in the Scheme he proposes to terminate, a written notification of the reasons for the action proposed to be taken by the Minister;
- (b) afford that person or, in the case of a grazings committee, a representative of that committee, an opportunity of appearing before and being heard by a person appointed for the purpose by the appropriate Minister; and
- (c) consider the report by the person so appointed and supply a copy of the report to the person mentioned in paragraph (a) above.

(7) The appropriate Minister shall not approve a further application from any person whose participation in the Scheme has been terminated under this paragraph, where the application is submitted within five years of the date of that termination.

(8) Where the appropriate Minister is entitled under this paragraph to recover from any person any payment made under this Scheme, the appropriate Minister may in addition recover from that person interest on the amount of that payment, calculated at the rate of one percentage point above the sterling three months London Interbank Offered Rate, on a day to day basis, from the date when that payment was made to that person to the date of its recovery by the appropriate Minister.

(9) In any case, where an amount falls to be paid to the appropriate Minister by virtue of (or by virtue of action taken under) this Scheme, the amount so falling to be paid shall be recoverable as a debt.

Obligation to permit entry and inspection

15.—(1) The occupier of land to which an application relates, or which is being converted to woodlands in pursuance of a conversion plan, or which is converted land and in respect of which grant is still being claimed, or which he is required by virtue of an undertaking to maintain in accordance with paragraph 8(b), shall permit any person duly authorised by the appropriate Minister, accompanied by such persons acting under his instructions as appear to the person so authorised to be necessary for the purpose, at all reasonable times and on production of his authority on demand, to enter upon and inspect any such land in order to verify the accuracy of any particulars given in any application or claim made under this Scheme, and compliance with any undertaking given under paragraph 8.

(2) The occupier shall render all reasonable assistance to the authorised person in relation to the matters mentioned in sub-paragraph (1) above, and in particular shall, at the request of that person,

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accompany him in making the inspection and shall identify any areas of land which are concerned in the application or claim in question.

Amendment of the Farm Woodland Premium Scheme 1992

16. The Farm Woodland Premium Scheme 1992(22) shall be amended in accordance with the provisions of Schedule 3.

10th March 1997

Tony Baldry
Minister of State, Ministry of Agriculture,
Fisheries and Food

11th March 1997

Lindsay
Parliamentary Under Secretary of State, Scottish
Office

Signed by authority of the Secretary of State for Wales

11th March 1997

Jonathan Evans
Parliamentary Under Secretary of State, Welsh
Office

We approve

13th March 1997

Roger Knapman
Patrick McLoughlin
Two of the Lords Commissioners of Her
Majesty's Treasury

SCHEDULE 1

Paragraph 9(2)

RATES OF GRANT

<i>Column 1</i> <i>Categories of converted land</i>	<i>Column 2</i> <i>Amount of grant payable per hectare per annum</i>
Converted land formerly arable land— if severely disadvantaged land before conversion	160
if disadvantaged land before conversion	230
if neither severely disadvantaged nor disadvantaged land before conversion	300
Converted land formerly improved land— if severely disadvantaged land before conversion	140
if disadvantaged land before conversion	200
if neither severely disadvantaged nor disadvantaged land before conversion	260
Converted land formerly unimproved land	60

SCHEDULE 2

Paragraph 10

MAXIMUM NUMBER OF PAYMENTS

<i>Column 1</i> <i>Categories of converted land</i>	<i>Column 2</i> <i>Maximum number of annual payments</i>
Converted land which in the appropriate Minister's view consists of more than 50% by area of broadleaved trees or eligible Scots Pine or a combination thereof	15
Converted land which in the appropriate Minister's view consists of 50% or less by area of broadleaved trees or eligible Scots Pine or a combination thereof	10

SCHEDULE 3

Paragraph 16

AMENDMENTS TO THE FARM WOODLAND PREMIUM SCHEME 1992

1. In paragraph 2(1) (interpretation)—
 - (a) for the definition of “arable land” there shall be substituted the following definition—

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““arable land” means eligible land which falls within the definition of “eligible land” in the Arable Area Payments Regulations 1996⁽²³⁾

- (b) for the definition of “improved grassland” there shall be substituted the following definition—

““improved land” means eligible land (other than arable land) which consists of one of the following—

- (a) grassland in respect of which the Forestry Commissioners have agreed to make payment of Better Land Supplement under the Woodland Grant Scheme; or
(b) land used for the growing of an agricultural crop or crops other than grass;”;
and

- (c) in the definition of “unimproved land”, for “improved grassland” there shall be substituted “improved land”.

2. In sub-paragraph (2) of paragraph 3 (approval of applications) the word “and” at the end of paragraph (b) shall be deleted and so shall paragraph (c).

3. In paragraph 5 (restrictions on approval of applications)—

- (a) in sub-paragraph (5)(b), there shall be added after the word “coppice” the words “, unless the Minister has a statement in writing from the appropriate nature conservancy council to the effect that such management will enhance the conservation of wildlife”; and

- (b) after sub-paragraph (5) there shall be added the following sub-paragraph—

“(5A) For the purposes of sub-paragraph (5)(b) above, “the appropriate nature conservancy council” means—

- (a) in relation to land in England, the Nature Conservancy Council for England established by section 128 of the Environmental Protection Act 1990⁽²⁴⁾;
(b) in relation to land in Wales, the Countryside Council for Wales established by section 128 of the Environmental Protection Act 1990; and
(c) in relation to land in Scotland, Scottish Natural Heritage established by section 1 of the Natural Heritage (Scotland) Act 1991⁽²⁵⁾

4. After paragraph 7 there shall be inserted the following paragraph—

“Final date for receipt of applications

7A. The appropriate Minister shall not approve an application to enter this Scheme under paragraph 3(1) where the application is received by him or, as the case may be, on his behalf after the coming into force of the Farm Woodland Premium Scheme 1997.”

5. In paragraph 8 (requirements for persons taking part in the Scheme) at the end of sub-paragraph (d) there shall be added the words “unless the appropriate Minister has notified the applicant or, as the case may be, his personal representatives or executors in writing that the land may be so managed to enhance the conservation of wildlife”.

6. In paragraph 9 (grants under the Scheme)—

- (a) at the beginning of sub-paragraph (2), there shall be inserted the words “Subject to sub-paragraph (2A) below,”;

- (b) after sub-paragraph (2) there shall be added the following sub-paragraphs—

⁽²³⁾ S.I. 1996/3142.

⁽²⁴⁾ 1990 c. 43.

⁽²⁵⁾ 1991 c. 28.

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“(2A) Where an applicant, in his area aid application submitted in relation to any period in respect of which payment is made under this Scheme, counts an area of converted land as set aside for the purposes of the set-aside requirement, the rate payable under this Scheme in relation to that area of converted land in respect of any period for which it is so counted, shall—as provided for in Article 7(2) of Council Regulation 1765/92—not exceed the set-aside payment in relation to that land.

(2B) For the purposes of this paragraph—

- (a) “area aid application” means the application provided for by Article 6(1) of Council Regulation 3508/92;
- (b) “Council Regulation 3508/92” means Council Regulation (EEC) No. 3508/92⁽²⁶⁾ establishing an integrated administration and control system for certain Community aid schemes as last amended by Council Regulation (EC) No. 2466/96⁽²⁷⁾;
- (c) “Council Regulation 1765/92” means Council Regulation (EEC) No. 1765/92⁽²⁸⁾ establishing a support system for producers of certain arable crops, as last amended by Council Regulation (EC) 1575/96⁽²⁹⁾.
- (d) “set-aside payment” means, in relation to an area of land which is converted land, the compensatory payment provided for in Article 7(5) of Council Regulation 1765/92 which would be made in relation to that area were it not converted land; and
- (e) “set-aside requirement” means the requirement to set land aside in accordance with Article 7(1) of Council Regulation 1765/92.”; and

(c) sub-paragraph (3) shall be deleted.

7. In paragraph 13 (variation of approval of conversion plans)—

- (a) the existing paragraph shall be designated sub-paragraph (1) and at the beginning of the paragraph there shall be inserted the phrase “Subject to sub-paragraph (2) below,”; and
- (b) at the end of the paragraph there shall be inserted the following sub-paragraph—

“(2) For the purposes of sub-paragraph (1) above, a proposed variation which, in the opinion of the appropriate Minister, increases to a material extent—

- (a) the area of unimproved land, or
- (b) the area of eligible land,

which is the subject of the conversion plan immediately prior to the proposed variation shall not be regarded as consistent with this Scheme.”

8. For Schedule 1 (rates of grant), there shall be substituted the following Schedule—

⁽²⁶⁾ OJ No. L 355, 5.12.1992, p.1.
⁽²⁷⁾ OJ No. L 335, 24.12.96, p.1.
⁽²⁸⁾ OJ No. L 181, 1.7.92, p.12.
⁽²⁹⁾ OJ No. L 206, 16.08.1996, p.1.

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“SCHEDULE 1

Paragraph 9(2)

RATES OF GRANT

<i>Column 1</i> <i>Categories of converted land</i>	<i>Column 2</i> <i>Amount of grant payable per hectare per annum</i> £
Converted land formerly arable land— if severely disadvantaged land before conversion	160
if disadvantaged land before conversion	230
if neither severely disadvantaged nor disadvantaged land before conversion	300
Converted land formerly improved land— if severely disadvantaged land before conversion	140
if disadvantaged land before conversion	200
if neither severely disadvantaged nor disadvantaged land before conversion	260
Converted land formerly unimproved land, which was either severely disadvantaged land or disadvantaged land before conversion	60”

EXPLANATORY NOTE

(This note is not part of the Scheme)

This Scheme, which applies to Great Britain provides for the payment of annual grants to abate financial losses incurred in consequence of the conversion of agricultural land (including, in Scotland, common grazings) to use for woodlands. The Scheme complies with Council Regulation (EEC) No. 2080/92 instituting a Community aid scheme for forestry measures in agriculture (OJ No. L215, 30.7.92, p.96).

This Scheme supersedes the Farm Woodland Premium Scheme 1992 (S.I.1992/905) under which no further new applications may be accepted after the coming into force of this Scheme (paragraph 16 and Schedule 3, paragraph 4).

This Scheme provides for applications for grants in respect of eligible land (as defined in paragraph 2(1)) to be made by occupiers of agricultural land carrying on agricultural businesses, and by grazings constables and grazings committees in respect of common grazings in Scotland. An initial entrant must submit with his application a plan for the conversion of eligible land to woodlands, which must be consistent with proposals for conversion agreed by him with the Forestry Commissioners for the purposes of the Woodland Grant Scheme (paragraph 3(1)). Where payment

of grant is due under the Scheme in respect of converted land, or where the planned conversion has not yet been completed, a successor to the initial entrant may apply for grant (paragraph 3(2)). An initial entrant must run an agricultural business, but is not required to maintain his agricultural business once his application has been approved, nor is a successor to an initial entrant required to run an agricultural business. Every applicant is required to give undertakings with respect to the planned conversion, the management and use of the land to which his application relates and related matters (paragraph 8).

The Scheme also—

- (a) excludes certain categories of land (paragraphs 5 and 6);
- (b) imposes on Scheme participants maximum and minimum limits in relation to the amount of land which may be converted to woodlands. In establishing whether maximum limits are exceeded, the Scheme provides for consideration to be given to conversions anywhere in the United Kingdom which can reasonably be regarded as falling within the same “holding”, a term which, except in one respect, has the same meaning as in Council Regulation (EEC) 3508/92 (OJ No. L355, 5.12.92, p.1) which establishes an integrated administration and control system for certain Community aid schemes. In that Regulation, a holding means all production units managed by a farmer (that is to say “an individual agricultural producer, whether a natural or legal person or a group of natural or legal persons, whatever legal status is granted the group and its members by national law, whose holding is within Community territory”). However, in this Scheme, where an applicant lets land on a grazing licence or seasonal let and retains significant management functions, that land will be deemed to form part of the applicant’s holding, whether or not it would for the purposes of Council Regulation 3508/92 (paragraphs 2(1) and 7);
- (c) classifies eligible land types into—
 - arable land eligible for arable area payments under the support system for producers of certain agricultural crops established by Council Regulation (EC) 1765/92 (OJ No. L181, 1.7.92, p.12, as last amended by Council Regulation (EC) 1575/96 (OJ No. L206, 16.8.1996, p.1);
 - other cropped land or improved grassland; and
 - unimproved land
(paragraphs 2(1), 9 and 10 and Schedules 1 and 2).
Rates of grant depend on whether the eligible land is disadvantaged or severely disadvantaged land. Those categories of land are defined in paragraph 2(1) by reference to designated maps. The maps are available for inspection during normal office hours at the addresses specified in the definition;
- (d) specifies the duration of payments and rates of grant according to the category of woodlands and the type of land from which they were converted. The rate of payment is capped where an applicant counts converted land as being set aside for the purposes of the set-aside requirement of Article 7(1) of Council Regulation (EEC) 1765/92 as amended. In such cases the rate payable under this Scheme cannot exceed the compensatory payment provided for in relation to that land by Article 7(5) of that Regulation (paragraph 9);
- (e) provides for the imposition, where certain financial conditions apply, of limits on the number of applications or approvals during any specified period of the Scheme (paragraph 12);
- (f) permits participants to vary their plans with the consent of the appropriate Minister (paragraph 13);

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- (g) provides for the withholding or recovery of grants and termination of participation in cases of false statements, failure to observe requirements or excess of area limits (paragraph 14); and
- (h) requires participants to allow entry onto and inspection of their land by persons duly appointed by the appropriate Minister, for the purposes of verifying accuracy of particulars and ensuring compliance with requirements (paragraph 15).

This Scheme also amends the Farm Woodland Premium Scheme 1992—

- (a) to remove the requirement for a participant or a successor to run an agricultural business;
- (b) to amend the rates of payment under that scheme;
- (c) to provide different rates of payment depending on whether the land was, at the time of application to the scheme—
 - arable land eligible for arable area payments under the support system for producers of certain agricultural crops established by Council Regulation (EC) 1765/92;
 - other cropped land or improved grassland; or
 - unimproved land;
- (d) to limit the rate of payment where an applicant counts converted land as being set aside for the purposes of the set-aside requirement of Article 7(1) of Council Regulation (EEC) 1765/92. In such cases, the rate payable under this scheme cannot exceed the compensatory payment provided for in relation to that land by Article 7(5) of that Regulation;
- (e) to provide that management of converted land for coppicing is permitted for conservation purposes only; and
- (f) to provide for the Minister to refuse to allow variations of conversion plans which increase materially the area of unimproved land or the overall area of eligible land to be converted, (paragraph 16 and Schedule 3).