
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 620

**The Rural Stewardship Scheme
(Scotland) Amendment Regulations 2005**

Amendment of regulation 2 (interpretation)

3. In regulation 2 (interpretation) in paragraph (1)–

(a) after the definition of “1991 Act” insert–

““1993 Act” means the Crofters (Scotland) Act 1993(1);

“2003 Act” means the Agricultural Holdings (Scotland) Act 2003(2);”;

(b) for the definition of “Commission Regulation” substitute–

““Commission Regulation” means Commission Regulation (EC) No. 817/2004(3) laying down detailed rules for the application of the Council Regulation;”;

(c) after the definition of “eligible land” insert–

““entrant from an Environmentally Sensitive Areas scheme” means an applicant who takes on an undertaking and who, prior to taking on that undertaking, had previously entered into an agreement under section 18(3) of the Agriculture Act 1986(4) as regards land in an area designated by:

- (i) the Environmentally Sensitive Areas (Loch Lomond) Designation Order 1992(5);
- (ii) the Environmentally Sensitive Areas (Breadalbane) Designation Order 1992(6);
- (iii) the Environmentally Sensitive Areas (Central Southern Uplands) Designation Order 1993(7);
- (iv) the Environmentally Sensitive Areas (Western Southern Uplands) Designation Order 1993(8);
- (v) the Environmentally Sensitive Areas (Cairngorms Straths) Designation Order 1993(9);
- (vi) the Environmentally Sensitive Areas (Stewartry) Designation Order 1993(10);
- (vii) the Environmentally Sensitive Areas (Central Borders) Designation Order 1993(11);

(1) 1993 c. 44.

(2) 2003 asp 11.

(3) O.J. No. L 153, 30.4.2004, p.30.

(4) 1986 c. 49. See section 18(11) for the definition of “the Minister”. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(5) S.I. 1992/1919; amended by S.I. 1992/2062, S.I. 1994/3067, S.I. 1995/3097, S.I. 1996/3082 and S.S.I. 2001/34.

(6) S.I. 1992/1920; amended by S.I. 1992/2063, S.I. 1994/3067, S.I. 1995/3096, S.I. 1996/738 and 3082 and S.S.I. 2001/30.

(7) S.I. 1993/996; amended by S.I. 1994/3067, S.I. 1996/1969 and 3082, and S.S.I. 2001/32.

(8) S.I. 1993/997; amended by S.I. 1994/3067, S.I. 1996/1968 and 3082 and S.S.I. 2001/31.

(9) S.I. 1993/2345; amended by S.I. 1994/3067, S.I. 1996/1963 and 3082 and S.S.I. 2001/33.

(10) S.I. 1993/2768; amended by S.I. 1994/3067, S.I. 1996/1967 and 3082 and S.S.I. 2001/26.

(11) S.I. 1993/2767; amended by S.I. 1994/3067, S.I. 1996/1964 and 3082 and S.S.I. 2001/25.

- (viii) the Environmentally Sensitive Areas (Argyll Islands) Designation Order 1993(12);
- (ix) the Environmentally Sensitive Areas (Machair of the Uists and Benbecula, Barra and Watersay) Designation Order 1993(13); or
- (x) the Environmentally Sensitive Areas (Shetland Islands) Designation Order 1993(14);

“entrant from the Habitats scheme” means an applicant who takes on an undertaking and who, prior to taking on that undertaking, had previously taken on an undertaking under the Habitats (Scotland) Regulations 1994(15);

“entrant with a successful challenge” means an applicant who took on an undertaking which came into effect before 1st January 2003 and who has had a request under Article 40(5) (hardship cases) of Council Regulation (EC) No. 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers(16) successfully upheld;”.

- (d) for the definition of “landlord” substitute–

““landlord” means–

- (a) in the case of an agricultural lease constituting a 1991 Act tenancy within the meaning of the 2003 Act, the landlord within the meaning of section 85 of the 1991 Act;
 - (b) in the case of a lease constituting a limited duration tenancy or short limited duration tenancy under the 2003 Act, the landlord within the meaning of section 93 of that Act;
 - (c) in the case of a croft within the meaning of the 1993 Act, the landlord within the meaning of section 61(1) of that Act;
 - (d) in the case of a holding within the meaning of the 1911 Act to which the 1991 Act does not apply, the same as it means in the 1911 Act,
- and, where appropriate, includes a head tenant;”;

- (e) after the definition of “moorland” insert–

““pre 2003 entrant” means an applicant who took on an undertaking which came into effect before 1st January 2003 but excluding entrants from an Environmentally Sensitive Areas scheme, entrants from the Habitats scheme or entrants with a successful challenge;

“post 2003 entrant” means an applicant who took on an undertaking which came into effect on or following 1st January 2003, or who takes on an undertaking from the date of the Rural Stewardship Scheme (Scotland) Amendment Regulations 2005(17), but excluding entrants from an Environmentally Sensitive Areas scheme, entrants from the Habitats scheme or entrants with a successful challenge;”;

- (f) for the definition of “tenant” substitute–

(12) S.I. 1993/3136; amended by S.I. 1994/3067, S.I. 1996/1966 and 3082 and S.S.I. 2001/27.

(13) S.I. 1993/3149; amended by S.I. 1994/3067, S.I. 1996/1962 and 3082 and S.S.I. 2001/28.

(14) S.I. 1993/3150; amended by S.I. 1994/3067, S.I. 1996/1965 and 3082 and S.S.I. 2001/29.

(15) S.I. 1994/2710; revoked by S.I. 1996/3035 subject to a savings provision in regulation 9(2).

(16) O.J. No. L 270, 21.10.2003, p.1 as amended by: Council Regulation (EC) No. 21/2004 (O.J. No. L 5, 9.1.2004, p.8); Council Regulation (EC) No. 583/2004 (O.J. No. L 91, 30.3.2004, p.1); Council Regulation (EC) No. 864/2004 (O.J. No. L 206, 9.6.2004, p.20); Council Regulation (EC) No. 2217/2004 (O.J. No. L 375, 23.12.2004, p.1); and Commission Regulation (EC) No. 118/2005 (O.J. No. L 24, 27.1.2005, p.15); and as derogated from by Commission Regulation (EC) No. 1540/2004 (O.J. No. L 279, 28.8.2004).

(17) S.S.I. 2005/620.

““tenant” means–

- (a) in the case of an agricultural lease constituting a 1991 Act tenancy within the meaning of the 2003 Act, the tenant within the meaning of section 85 of the 1991 Act;
- (b) in the case of a lease constituting a limited duration tenancy or short limited duration tenancy under the 2003 Act, the tenant within the meaning of section 93 of that Act;
- (c) in the case of a croft within the meaning of the 1993 Act, the crofter within the meaning of section 3(3) of that Act;
- (d) in the case of a holding within the meaning of the 1911 Act to which the 1991 Act does not apply, the landholder within the meaning of section 2(2) of the 1911 Act,

and, where appropriate, includes a sub-tenant;”.