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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 155**

**AGRICULTURE**

**The Rural Development Contracts (Land Managers Options) (Scotland) Amendment Regulations 2009**

<i>Made</i>	- - - -	<i>22nd April 2009</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>23rd April 2009</i>
<i>Coming into force</i>	- -	<i>15th May 2009</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 <sup>M1</sup> and all other powers enabling them to do so.

**Marginal Citations**

**M1** 1972 c. 68. Section 2(2) was amended by the [Scotland Act 1998 \(c. 46\)](#), [Schedule 8](#), paragraph 15(3). The functions conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

**Citation and commencement**

1. These Regulations may be cited as the Rural Development Contracts (Land Managers Options) (Scotland) Amendment Regulations 2009 and come into force on 15th May 2009.

**Amendment of the Rural Development Contracts (Land Managers Options) (Scotland) Regulations 2008**

2.—(1) The Rural Development Contracts (Land Managers Options) (Scotland) Regulations 2008 <sup>M2</sup> are amended in accordance with paragraphs (2) to (7).

(2) In regulation 2(1) (interpretation)—

(a) omit the definition of “Council Regulation 1782/2003”; and

(b) in the appropriate place, insert—

““Council Regulation 73/2009” means Council Regulation ([EC](#)) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations ([EC](#))

*Status: Point in time view as at 15/05/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Rural Development Contracts (Land Managers Options) (Scotland) Amendment Regulations 2009 (revoked). (See end of Document for details)*

No. 1290/2005, (EC) No. 247/2006, (EC) No. 378/2007 and repealing Regulation (EC) No. 1782/2003<sup>M3</sup>.”.

(3) In regulation 5 (maximum amount of aid payable), for “Article 22 of Council Regulation 1782/2003” substitute “ Article 19 of Council Regulation 73/2009 ”.

(4) In regulation 8 (eligible land)–

- (a) in paragraph (1)(a), for “Article 22 of Council Regulation 1782/2003” substitute “ Article 19 of Council Regulation 73/2009 ”;
- (b) in paragraph (1)(b), for “Article 20 of Council Regulation 1782/2003” substitute “ Article 17 of Council Regulation 73/2009 ”; and
- (c) in paragraph (3), for “Article 20 of Council Regulation 1782/2003” substitute “ Article 17 of Council Regulation 73/2009 ”.

(5) In regulation 10 (undertakings)–

- (a) in paragraph (2), after “area related options” insert “ and the animal welfare management programme ”;
- (b) in paragraph (5)(a), for “Article 4 of, and Annex III to, Council Regulation 1782/2003” substitute “ Article 5 of, and Annex II to, Council Regulation 73/2009 ”; and
- (c) in paragraph (6)–
  - (i) for “either or both” substitute “ any of the ”; and
  - (ii) for “18 and 19” substitute “ 18, 19 and 22 ”.

(6) In Schedule 1 (interpretation of schedules), at the appropriate place insert–

““finishing animals” means feeding animals for subsequent slaughter; and

“veterinary surgeon” means a person who is registered in the register of veterinary surgeons or the supplementary veterinary register provided for under sections 2 and 8 of the Veterinary Surgeons Act 1966 <sup>M4</sup>”.

(7) In Schedule 2 (land managers options)–

- (a) in column 2 of option 8 (membership of quality assurance and organic schemes), after “Scottish Quality Wild Venison Assurance Scheme”, insert–
  - “QMS Quality Meat Assurance Scheme – Cattle and Sheep
  - QMS Quality Meat Assurance Scheme – Pigs
  - Scottish Quality Farm Assured Combinable Crops Scheme”;
- (b) in column 3 of option 21 (active management to improve the condition of vernacular rural buildings, archaeological or historic sites and historic landscapes), omit “annual” in both places where it appears;
- (c) after option 21, insert–

<i>“Column 1 Option</i>	<i>Column 2 Activities and Eligibility Conditions</i>	<i>Column 3 Rate of Payment</i>
22. Animal welfare management programme	This is a 5 year commitment.	

An applicant is eligible for payment under this option if the applicant has at least 5 livestock units, comprising cattle, sheep or goats (or any combination of these animals) entered on the single application and holds them on farm for at least 10 months of the scheme year; and undertakes the following–

- (1) Annual animal welfare review £38.00 per scheme year.

In each year of the 5 year animal welfare management programme (by 30th June in year one and by 1st December in years 2 to 5) together with a veterinary surgeon, an applicant must–

- (a) review the current welfare of the applicant's livestock, including assessing welfare against the 4 welfare criteria and 12 welfare themes in the EU Welfare Quality Project MS,
- (b) highlight disease risks in the surrounding area, nationally and internationally and the potential impact on

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- livestock welfare;
- (c) identify potential opportunities to improve welfare in at least one of the following 5 areas:
  - (i) preventing pathologies due to farm practice;
  - (ii) improving housing conditions;
  - (iii) increasing outdoor access;
  - (iv) reducing use of mutilations; and
  - (v) provision of feed and water closer to natural needs;
- (d) in year one, agree actions from the list of actions in “(4) Actions to improve welfare” (below) to be undertaken for the 5 year programme; and
- (e) in years 2 to 5, review the impact of these actions and discuss the results of monitoring and benchmarking activities outlined at “(2) Animal welfare monitoring and benchmarking” (below) to identify–

- (i) any impact of any actions taken on welfare; and
- (ii) specific areas of weakness and targets to aim for.

(2) Animal welfare monitoring and benchmarking £53.00 per scheme year.

In each year of the 5 year programme the applicant must, in agreement with a veterinary surgeon—

- (a) perform additional inspections and record on an agreed regular basis (monthly, quarterly or annually) specified breeding and welfare measures according to enterprise type;
- (b) pass data to a veterinary surgeon within an agreed timescale as entered on the Animal Welfare Management Plan; and
- (c) arrange for a veterinary surgeon to enter and analyse the data in the central Scottish Animal Welfare Monitoring and Benchmarking

**Status:** Point in time view as at 15/05/2009.

**Changes to legislation:** There are currently no known outstanding effects for the *The Rural Development Contracts (Land Managers Options) (Scotland) Amendment Regulations 2009 (revoked)*. (See end of Document for details)

System to investigate–

- (i) any impact of actions taken on welfare; and
- (ii) specific areas of weakness and targets to aim for.

(3) Annual animal welfare management plan £46.00 per scheme year.

In each year of the 5 year programme the applicant must, together with a veterinary surgeon–

- (a) assess the welfare status, agree actions to improve welfare and obtain from a veterinary surgeon, by 1st December, and implement by the end of the scheme year, a plan that documents–
  - (i) in years 2 to 5 a summary of the review with a veterinary surgeon;
  - (ii) current use of routine mutilations and planned changes;
  - (iii) the current feeding regime (type and

- timing)  
and any  
planned  
changes;
- (iv) current  
biosecurity  
arrangements  
and any  
planned  
changes;
- (v) agreed  
specific  
actions  
from “(4)  
Actions to  
improve  
welfare” (below);
- (vi) veterinary  
justification  
for any  
changes to  
the actions  
chosen  
from “(4)  
Actions to  
improve  
welfare” (year  
2 onwards)  
(below);
- (vii) a planned  
schedule of  
prophylactic  
treatments;  
and
- (viii) a proactive  
schedule  
for treating  
any non  
notifiable  
diseases  
arising,  
detailing  
first  
line and  
second line  
treatment  
for each  
disease  
identified  
as a risk,  
treatment  
instructions  
and

**Status:** Point in time view as at 15/05/2009.

**Changes to legislation:** There are currently no known outstanding effects for the *The Rural Development Contracts (Land Managers Options) (Scotland) Amendment Regulations 2009 (revoked)*. (See end of Document for details)

- withdrawal periods;
- (b) include in the plan a section signed and dated by both the applicant and a veterinary surgeon that includes–
  - (i) land parcel identifier(s) of fields–
    - (aa) identified as a separation facility (if taking the biosecurity option);
    - (bb) at high risk or infected with liver fluke (if taking liver fluke control options); and
    - (cc) grazing taken out of use (if taking the sheep scab option);
  - (ii) a declaration from his or her veterinary



- surgeon
- that a
- detailed
- plan has
- been
- produced
- and that
- appropriate
- benchmarking
- data has
- been
- received
- on an
- agreed
- regular
- basis; and
- (iii) a
- declaration
- from the
- applicant
- that the
- minimum
- number of
- livestock
- units will
- be held
- on the
- farm for
- at least 10
- months of
- the scheme
- year and
- that this
- includes
- the
- appropriate
- animal
- types for
- the options
- undertaken.
- (4) Actions to
- improve welfare

The applicant must, in discussion with a veterinary surgeon, choose and undertake at least 3 of the 10 actions below each year. Applicants who undertake 4 or 5 options must have

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**Status:** Point in time view as at 15/05/2009.

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at least 8 livestock units. Applicants who undertake 6 to 10 options must have at least 14 livestock units.

Action One – Implementing biosecurity	£372.00 per scheme year. £30.00 per hectare on non nitrate vulnerable zone <sup>M6</sup> land. £29.00 per hectare on nitrate vulnerable zone landfor field based separation facility per scheme year up to 5 hectares.
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The applicant must put in place and implement–

- (a) procedures for sourcing new livestock that minimise the risk of bringing disease onto the farm. This must include obtaining written assurance that the person from whom the livestock is sourced has current membership in a relevant health accreditation scheme(s);
- (b) at least one separation facility to be used for new stock coming onto the farm. The separation facility must have physical barriers and stock management procedures

that prevent both direct and indirect contact between animals in the facility and other animals on the farm. Records must be kept of the dates and use of the separation facility;

- (c) a standard regime on receiving new livestock, agreed with a veterinary surgeon, to include—
  - (i) an appropriate length of isolation period and what to look for during observations;
  - (ii) footbathing of incoming stock;
  - (iii) vaccinations routinely used on the farm against disease known to exist on the farm;
  - (iv) faecal sampling for parasites and, where parasites are present, appropriate treatment; and

**Status:** Point in time view as at 15/05/2009.

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- (v) blood sampling for evidence of infection of at least one of the following: Bovine Viral Diarrhoea (“BVD”), Infectious Bovine Rhinotracheitis (“IBR”), and Johne's disease.
  - (d) procedures to reduce the risk of staff, visitors, contractors, deliveries and collections bringing disease onto farm which must be documented and effectively communicated to them; and
  - (e) disinfection procedures on the farm and for farmer's own livestock transport to prevent the spread of disease which must be documented and effectively communicated to them.
- Action Two – £285.00 per scheme  
Reducing mutilations in sheep year.
- The applicant must–
- (a) adjust stock management

- to eliminate all routine–
  - (i) tail docking;  
and
  - (ii) castration,  
and
- (b) limit the use of other mutilations to specific instances, where a veterinary surgeon considers not to undertake them would compromise health and safety of staff, visitors, contractors, public etc or animal welfare.

Procedures for animal identification, embryo transfer or surgical procedures are not mutilations under this option.

Any procedures deemed necessary by a veterinary surgeon for welfare or unavoidable practical reasons must be performed by a person trained in the procedure by a veterinary surgeon.

Action Three – Maintaining bodily condition                      £383.00 per scheme year.

This option is for breeding cows, heifers, sheep and gimmers only. Finishing animals are not eligible.

The applicant must–

- (a) undertake  
and complete

**Status:** Point in time view as at 15/05/2009.

**Changes to legislation:** There are currently no known outstanding effects for the *The Rural Development Contracts (Land Managers Options) (Scotland) Amendment Regulations 2009 (revoked)*. (See end of Document for details)

- training in  
conditioning  
scoring from  
a veterinary  
surgeon in the  
first year of the  
commitment;
- (b) undertake  
conditioning  
scoring of all  
breeding females  
6 to 8 weeks  
before breeding  
and 6 to 8 weeks  
before calving/  
lambing, record  
the results  
and assign to  
appropriate  
feeding groups;
- (c) undertake  
conditioning  
scoring of  
a sample of  
breeding females  
on each of  
the occasions  
listed in the  
tables below  
and record  
the results. In  
dairy herds a  
minimum of  
50 cows, in  
beef herds a  
minimum of  
25 cows and in  
sheep flocks a  
minimum of 50  
ewes must be  
scored. Where  
the herd or flock  
size is less than  
these sample  
sizes all eligible  
stock must be  
scored;
- (d) during the  
annual review,  
obtain and  
implement  
advice from  
a veterinary

- surgeon on the type and timing of supplementary feeding, taking account of forage analysis and nutritional advisory services obtained, required to achieve (e) (below); and
- (e) maintain body condition scoring of at least 95% of the sample livestock between 1.5 and 4.0 at all stages and maintain at least 75% of the sample between the ranges at the stages outlined in the tables below.

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**Body Conditioning Scoring**

	Dairy cows	cows	heifers
Pre-calving	2.5–3.0	2.5–3.0	2.5–3.0
Pre-service	2.0–3.0	2.0–3.0	2.0–2.5
Drying off	2.5–3.0	2.5–3.0	

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**Suckler cows and heifers**

	Autumn calving	Spring calving	Summer calving
At calving	2.5–3.0	2.5–3.0	2.5–3.0
At service	2.5–3.0	2.5–3.0	2.5–3.0

**Status:** Point in time view as at 15/05/2009.

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At turnout	2.0– 2.5	2.0– 2.5	2.0– 2.5
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At start of winter	2.5– 3.0	2.5– 3.5	2.5– 3.0
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	Sheep ewes	Lowland ewes	Hill ewes
Mating	3.0– 3.5	2.5– 3.0	
Lambing	2.0– 2.5	2.0– 2.5	

Action Four – Preventing lameness

Sheep or cattle or goats only £424 per scheme year.  
Minimum 2 of sheep, cattle and goats £429.00 per scheme year.

- The applicant must–
- (a) footbathe all adult livestock as follows–
    - (i) sheep, beef cattle and goats at least twice yearly; and
    - (ii) dairy cattle – monthly;
  - (b) in respect of housed cattle clean all areas of the house twice daily, except straw bedded courts;
  - (c) maintain gateways and areas around feeding stations in a firm condition;
  - (d) undertake, and complete training in the first year of the commitment in,–



- (i) footrot scoring if keeping sheep; and
- (ii) locomotion scoring if holding cattle;
- (e) undertake regular lameness scoring as follows—
  - (i) locomotion scoring for a minimum of 50 cattle, monthly for dairy and twice yearly for beef. Give treatment for scores of one or more; and
  - (ii) footrot scoring for a minimum of 100 sheep and 50 goats twice yearly. Give treatment for scores of 2 or more; and
- (f) ensure physical foot inspection of all adult livestock is carried out twice in the scheme year and foot trimming untaken where necessary.

Action Five – Mastitis control £372.00 per scheme year.

**Status:** Point in time view as at 15/05/2009.

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This option applies to dairy cows.

The applicant must—

- (a) on a monthly basis, collect individual milk samples from each cow in the herd and arrange for laboratory analysis for somatic cell count. Where the cell count for an individual is greater than 250,000 cells per ml for more than one consecutive month, the applicant must ensure a veterinary investigation into the cause of the mastitis infection is carried out and follow veterinary advice on treatment;
- (b) ensure a minimum of one veterinary visit is made during the scheme year to investigate—
  - (i) any hygiene deficits during milking; and
  - (ii) any design, bedding, flooring or hygiene deficits with cubicles,

- that may contribute to mastitis infection, and address any problem identified; and
- (c) during the scheme year ensure at least 2 visits from machine maintenance contractors are carried out, or more as may be required by manufacturer's recommendations.

Action Six – Control and prevention of diarrhoea and pneumonia £419.00 per scheme year.

Where livestock managed together suffer an outbreak of scour or pneumonia the applicant must–

- (a) take–
  - (i) faecal samples from a selection of animals affected by scour;
  - (ii) swabs and/or blood samples from a selection of animals affected by pneumonia;
  - (iii) ensure laboratory analysis for diarrhoea and pneumonia

**Status:** Point in time view as at 15/05/2009.

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- pathogens  
is carried  
out; and
    - (iv) reduce  
stocking  
density,  
increase  
ventilation  
and/or  
carry out  
treatment  
and/or  
vaccination  
as  
appropriate;  
and
  - (b) undertake a  
lungworm  
surveillance  
programme to  
comprise–
    - (i) a monthly  
bulk milk  
antibody  
check for  
lungworm  
in dairy  
cows from  
August to  
January  
inclusive;
    - (ii) collecting  
faecal  
samples  
from at  
least 6  
other non  
milking  
cattle  
every 2  
months  
from  
August to  
January for  
laboratory  
analysis;  
and
    - (iii) initiate  
treatment  
and/or  
vaccination  
programme  
as

appropriate  
if disease  
is  
identified.

Action Seven – Liver fluke control £280.00 per scheme year, plus £278.00 per hectare per scheme year for loss of grazing, (£264 per hectare per scheme year for nitrate vulnerable zone land) where grazing is lost in terms of (c) in column 2 (below). A maximum of 1.5 hectare may be claimed per scheme year.

The applicant must–

- (a) where possible, obtain feedback of identified incidences of liver fluke from the abattoir;
- (b) at least once every 2 months collect faecal samples from at least 6 sites on the farm for bulk laboratory analysis. Initiate treatment if the liver fluke is detected;
- (c) identify high risk areas of ground for grazing and avoid using such areas between July and March inclusive;
- (d) on the basis of faecal sampling results, identify liver fluke infested pasture and do not use such pasture between July

**Status:** Point in time view as at 15/05/2009.

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- and March inclusive;
- (e) record in the Animal Welfare Management Plan fields that are partially or wholly affected by (b) and (c) (above); and
- (f) inspect and clear drainage for pasture at least twice a year.

Action Eight – Johne's disease control      £378.00 per scheme year.

This option applies only to cattle.

The applicant must–

- (a) isolate and test scouring cattle without delay;
- (b) ensure that housed cows calve in clean, well-bedded areas and outdoor cows calve in sparsely stocked fields free from heavy faecal contamination;
- (c) ensure that calves only receive colostrum from their own dam, or in the absence of their own dam's colostrum, preferably from a single animal that has repeatedly tested negative for *Mycobacterium avium* paratuberculosis;
- (d) ensure that housed calves

- are subsequently reared in a clean environment, free from adult faecal contamination;
- (e) not use pasture close to ponds/streams/ditches that also pass through neighbouring land;
  - (f) not graze young stock on pasture where slurry has been applied in the last 3 months;
  - (g) not graze weaned stock on pasture where adults have grazed;
  - (h) not co-graze or sequential graze with other livestock that can carry Johne's disease infection;
  - (i) not breed from the offspring of infected cows.  
Where at least 30% of cows are infected, limited breeding using some of the progeny may be undertaken under specific and written veterinary

**Status:** Point in time view as at 15/05/2009.

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- instruction;  
and
- (j) join an approved Johne's disease control programme <sup>M7</sup>.
- Action Nine – Control of bovine viral diarrhoea (BVD) £372.00 per scheme year.
- The applicant must–
- (a) prevent nose to nose contact with neighbouring cattle at farm boundaries;
- (b) cull persistently infected adults and vaccinate the breeding herd against BVD in an on-going programme that adheres to the vaccine manufacturer's recommendations;
- (c) where possible, source breeding replacements only from herds that are Cattle Health Certification Standard (“CHeCS”) accredited free of BVD or individuals that have been satisfactorily screened for BVD virus according to the Cattle Health Improvement Plan for Scotland guidelines <sup>M8</sup> and have been vaccinated;



- (d) where such cattle cannot be sourced, purchased animals must be screened for BVD virus and be maintained in isolation from other stock until freedom from persistent infection can be established;
- (e) calve in isolation pregnant animals purchased and found positive for antibody to BVD. The calf must be isolated until it can be tested and shown not to be a persistently viraemic calf. Where a calf is found to be persistently infected it should be culled;
- (f) not buy dairy bred calves to set on to cows that have lost a calf unless the calf can be sourced from an accredited BVD free herd;
- (g) monitor dairy herd infection by carrying out quarterly bulk milk antibody monitoring in the dairy herd. Where the bulk tank is strongly positive, composite first lactation

**Status:** Point in time view as at 15/05/2009.

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samples must be used; and

- (h) in the beef herd, sample and test 5 animals from each separately managed group of calves in the 9 to 18 months age range each year.

Action Ten – Sheep scab control £204.00 per scheme year.

The applicant must–

- (a) contact farm managers from all neighbouring farms using common land or using land immediately adjacent to their own, where sheep from both premises could come into contact. Where possible co ordinate treatment for sheep scab; and
- (b) where co ordinated treatment is not possible, not use common land or land immediately adjacent (within 5 metres) to land used by neighbouring farms and must record these areas in the Animal Welfare Management Plan. £15.00 per hectare per scheme year for loss of grazing. A maximum of 10 hectares may be claimed.”.

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**Marginal Citations**

- M2** [S.S.I. 2008/159](#).
- M3** O.J. No. L 30, 31.01.09, p16.
- M4** 1966 c. 36. Section 2 was amended by [S.I. 2003/2919](#), **Schedule**, paragraph 1 and [S.I. 2008/1824](#), **regulation 2**.
- M5** Information about the EU Welfare Quality Project can be found at <http://www.welfarequality.net>. In particular see factsheet on “principles and criteria of good farm animal welfare”.
- M6** “Nitrate vulnerable zone” is defined in Schedule 1 (Interpretation of Schedules) of the Rural Development Contracts (Land Managers Options) (Scotland) Regulations 2008 (S.S.I. No. 2008/159).
- M7** An approved John’s disease control programme is one which meets the Cattle Health Certification Standard (“CHeCS”). Information about CHeCS can be found at <http://www.checs.co.uk> and at <http://www.afbini.gov.uk/chs-checs-technical-document.pdf>.
- M8** Information regarding the Cattle Health Improvement Plan for Scotland is available in the Programme guidance by Scottish Ministers relating to these Regulations at <http://www.scotland.gov.uk/srdp>.

St Andrew's House,  
Edinburgh  
22nd April 2009

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

**Status:** Point in time view as at 15/05/2009.

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## EXPLANATORY NOTE

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

These Regulations amend the Rural Development Contracts (Land Managers Options) (Scotland) Regulations 2008, (“the 2008 Regulations”) which introduce measures to supplement Council Regulation (EC) No. 1698/2005 (“the Council Regulation”) which lays down general rules governing Community support for rural development (financed by the European Agricultural Fund for Rural Development established by Council Regulation (EC) No. 1290/2005 and Commission Regulations (EC) Nos. 1974/2006 and 1975/2006 laying down detailed rules for the application of the Council Regulation.

The 2008 Regulations provide for the payment of aid to be made available by the Scottish Ministers from the Scotland Rural Development Programme 2007–13 to any person who enters into an undertaking with the Scottish Ministers to carry out, or as the case may be carry out and maintain activities relevant to at least one of the land managers options set out in Schedule 2 to those Regulations.

Regulation 2(2) of these Regulations inserts definitions into regulation 2(1) of the 2008 Regulations to update the regulation following the repeal of Council Regulation 1782/2003. Regulation 2(2), (3) and (4) amend regulations 5 and 8 of the 2008 Regulations to replace references to Council Regulation 1782/2003 with references contained in Council Regulation 73/2009.

Regulation 2(5) amends regulation 10(2) of the 2008 Regulations to include references to the animal welfare management programme. Regulation 10(5)(a) is amended to refer to Article 5 of, and Annex II to, Council Regulation 73/2009. A minor amendment is also made to paragraph (6) of regulation 10 to correct typographical errors.

In regulation 2(6) of these Regulations the definitions of “finishing animal” and “veterinary surgeon”, which are referred to in option 22 of Schedule 2 to the 2008 Regulations, inserted into Schedule 1 to the 2008 Regulations.

Regulation 2(7) adds three additional quality assurance schemes to the list of schemes at option 8 of Schedule 2 to the 2008 Regulations. These schemes are “QMS Quality Meat Assurance Schemes (Cattle and Sheep); QMS Quality Meat Assurance Scheme (Pigs) and Scottish Quality Farm Assured Combinable Crops Scheme”. Regulation 2(7) also adds a new option 22 to Schedule 2 to the 2008 Regulations, called the Animal Welfare Management Programme.

These Regulations result in no increase in costs to the Scottish Government, local government or business. No Regulatory Impact Assessment has therefore been carried out.

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