

**2003 No. 209**

**AGRICULTURE**

**The SFGS Farmland Premium Scheme 2003**

*Made*

*19th March 2003*

*Coming into force in accordance with paragraph 1*

The Scottish Ministers, in exercise of the powers conferred by section 2 of the Farm Land and Rural Development Act 1988(a) and of all other powers enabling them in that behalf, hereby make the following Scheme, a draft of which has, in accordance with section 2(4) of that Act, been laid before and approved by resolution of the Scottish Parliament:

**Citation, commencement and extent**

1.—(1) This Scheme may be cited as the SFGS Farmland Premium Scheme 2003 and shall come into force on the day after the day on which it is made or 1st April 2003 if later.

(2) This Scheme extends to Scotland only.

**Interpretation**

2. In this Scheme—

“agricultural” shall be construed in accordance with section 86 of the Agriculture (Scotland) Act 1948(b), 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 entitling another person by lease for a term of less than 12 months to use the land for eligible agricultural activities where the Scottish Ministers are satisfied that the landlord carries out or is to carry out, whether personally or by a manager, during the period of 12 months commencing on the date the lease commences, a significant degree of management of that land;

“application” means application for grant under this Scheme and “applicant” shall be construed accordingly;

“arable land” means—

- (i) land on which an arable crop is growing or has been planted;
- (ii) land which is lying fallow as part of a normal crop rotation (including short term leys); or
- (iii) set-aside land which has been land within the meaning of (i) and (ii);

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(a) 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 the Farm Land and Rural Development Act 1988 and is to be read with the definition of the “appropriate Minister” in those sections. In relation to Scotland the definition of “the appropriate authority” was modified by section 1(6), which was inserted by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820 “the 1999 Order”), Schedule 2, paragraph 88(2). Section 2 was amended, in relation to Scotland, by section 3(2) of the Crofter Forestry (Scotland) Act 1991 (c.18) and the 1999 Order, Schedule 2, paragraph 88(3). 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). The requirement to obtain Treasury consent was removed by section 55 of that Act.

(b) 1948 c.45.

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

“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 establishing an integrated administration and control system for certain Community aid schemes(a);

“Council Regulation 1257/99” means Council Regulation (EC) No. 1257/1999 of 17th May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations(b);

“designated maps” means the 4 maps numbered 1 to 4, each such map being marked “Map of less-favoured farming areas in Scotland” 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 Executive, Environment and Rural Affairs Department of Pentland House, 47 Robb’s Loan, Edinburgh EH14 1TY;

“disadvantaged land” (except in the expression “severely disadvantaged land”) means land shown coloured blue or coloured pink on the designated maps, and–

- (i) which is in the opinion of the Scottish Ministers 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 Scottish Ministers 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(c) and includes a grazings constable;

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

- (a) an applicant entitles another person by lease for a term of less than twelve months to use land for eligible agricultural activities; and
- (b) the Scottish Ministers are satisfied that the applicant carries out or is to carry out, whether personally or by a manager, during the term of the lease 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”, means eligible land (other than arable land) which consists of land used for grazing where over one third of the sward comprises, singly or in mixture, ryegrass, cocksfoot or timothy, or land that has been improved by management practices such as liming and top dressing, where there is not a significant presence of sensitive plant species indicative of native unimproved grassland;

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

“livestock” has the same meaning as in section 86 of the Agriculture (Scotland) Act 1948;

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(a) O.J. No. L 355, 5.12.92, p.1, as amended by Council Regulation (EC) No. 165/1994 (O.J. No. L 24, 29.1.94, p.6), Council Regulation (EC) No. 3233/1994 (O.J. No. L 338, 28.12.94, p.13), Council Regulation (EC) No. 3235/1994 (O.J. No. L 338, 28.12.94, p.16), Council Regulation (EC) No. 3072/1995 (O.J. No. L 329, 30.12.95, p.18), Council Regulation (EC) No. 1577/1996 (O.J. No. L 206, 16.8.96, p.4), Council Regulation (EC) No. 2466/1996 (O.J. No. L 335, 24.12.96, p.1), Commission Regulation (EC) No. 613/1997 (O.J. No. L 94, 9.4.97, p.1), Council Regulation (EC) No. 820/1997 (O.J. No. L 117, 7.5.97, p.1), Council Regulation (EC) No. 1036/1999 (O.J. No. L 127, 21.5.99, p.4), Council Regulation (EC) No. 1593/00 (O.J. No. L 182, 21.7.00, p.4) and Council Regulation (EC) No. 495/2001 (O.J. No. L 72, 14.3.01, p.6).

(b) O.J. No. L 160, 26.6.99, p.80.

(c) 1993 c.44.

“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 proprietor of the *dominium utile*; or
  - (ii) as tenant; 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;

“the Plan” means the rural development plan drawn up in relation to Scotland and submitted in accordance with Article 41 of Council Regulation 1257/1999;

“planting” includes the sowing of tree seeds;

“the Scottish Forestry Grants Scheme” means the scheme under which the Forestry Commissioners may enter into agreements to make grants pursuant to section 1 of the Forestry Act 1979(a) for and in connection with the use and management of land for forestry purposes;

“set-aside land” has the same meaning as it has for the purposes of Council Regulation 1251/99(b) establishing a support system for producers of certain arable crops;

“severely disadvantaged land” means land shown coloured pink on the designated maps and—

- (i) which is in the opinion of the Scottish Ministers 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 Scottish Ministers 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.

### Approval of applications

3.—(1) Subject to the provisions of this Scheme, the Scottish Ministers 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 Scottish Forestry Grants Scheme;
- (b) submits to the Scottish Ministers 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 Scottish Ministers 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 Scottish Ministers have given approval of it in writing to the Forestry Commissioners and the Forestry Commissioners have informed the applicant in writing of that approval; or

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(a) 1979 c.21. Section 1 was amended by the Crofter Forestry (Scotland) Act 1991, 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.

(b) O.J. No. L 160, 26.6.99, p.1. Council Regulation 1251/99 was amended by Council Regulations 2704/99 (O.J. No. L 327, 21.12.99, p.12), 1672/00 (O.J. No. L 193, 29.7.00, p.13) and 1038/01 (O.J. No. L 145, 31.5.01, p.16).

- (b) the Scottish Ministers have given approval of it in writing to the applicant.

#### **Application for grant**

- 4. Every application shall be made in such form as the Scottish Ministers may require.

#### **Restrictions on approval of application: general**

- 5.—(1) The Scottish Ministers shall not approve an application which relates to land which—
  - (a) is occupied by a tenant unless the owner of that land has given consent in writing to the occupier's application in such form as the Scottish Ministers may require; or
  - (b) is occupied by a grazings committee unless that committee, pursuant to section 50 of the Crofters (Scotland) Act 1993, 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)(a) above, "owner" means proprietor of the *dominium utile*, and where land is occupied by a sub-tenant, includes a superior tenant.

(3) The Scottish Ministers shall not approve an application under paragraph 3(1) which relates to land which, in their opinion, 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 Scottish Forestry Grants Scheme.

- (4) The Scottish Ministers 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(a);
  - (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(b); 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 Scottish Ministers 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; or
- (c) where the trees, other than nurse trees, are intended to be used as Christmas trees.

(6) The Scottish Ministers shall refuse to approve an application which relates to any land if it appears to them that the conversion to woodlands of that land would frustrate the purpose of any assistance previously given or to be given out of money provided by or under any statutory provision or by 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. The Scottish Ministers shall not approve an application which relates to land, possession of which was obtained from a tenant of that land by means of—

- (a) a notice to quit to which section 22(2)(b) of the Agricultural Holdings (Scotland) Act 1991(c) 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—
  - (i) no such counter-notice was served; or

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(a) 1967 c.10.

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

(c) 1991 c.55.

- (ii) 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 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 Scottish Ministers shall not approve under paragraph 3(1) an application if it concerns the conversion to woodlands of less than 1 hectare of eligible land or such other area as may be specified in the Rural Development Plan approved under Council Regulation 1257/99.

(2) Except in the case of an application relating to a common grazing, the Scottish Ministers shall not approve an application if they decide that the application concerns the conversion to woodlands of more than—

- (a) 40 hectares of unimproved land, or such other area as may be specified in the Plan approved in accordance with Council Regulation 1257/99; or
- (b) 200 hectares of eligible land.

(3) In considering whether to make the decision referred to in sub-paragraph (2) above, the Scottish Ministers 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 them 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) In the case of an application relating to a common grazing, the Scottish Ministers 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, or any other such area as may be specified in the Plan approved in accordance with Council Regulation 1257/99.

#### **Requirements for persons taking part in the Scheme**

8. An applicant shall undertake to the Scottish Ministers that the applicant, or the executors of the applicant, 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 Scottish Ministers;
- (b) maintain any converted land forming part of that land in accordance with good forestry practice, to the satisfaction of the Scottish Ministers—
  - (i) in the case of a converted land which in the Scottish Ministers' view consists of 50 per cent or less by area of broadleaved trees or eligible Scots Pine or a combination 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 Scottish Ministers' 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;
- (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) comply with any requirement by reference to which grant may be paid under this Scheme included in the Rural Development Plan approved in accordance with Council Regulation 1257/99;
- (h) except in the case of a common grazing, notify the Scottish Ministers in writing—
  - (i) of any change in occupation of the eligible land or the converted land which the applicant or the applicant’s executors occupy within three months of its occurrence;
  - (ii) of the termination of the agricultural business carried on by him or her, or them on the holding which includes that converted land;
- (i) except in the case of a common grazing, furnish such information as to the agricultural business carried on by the applicant or the applicant’s executors on the holding which includes converted land which the applicant or the applicant’s executors occupy, and as to that converted land, as the Scottish Ministers may require to evaluate the effectiveness of this Scheme; and
- (j) 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 the applicant’s or the applicant’s executor’s activities in connection with that common grazing, as the Scottish Ministers may require to evaluate the effectiveness of this Scheme.

### **Grants under this Scheme**

9.—(1) Subject to the provisions of this Scheme, the Scottish Ministers may make to an initial entrant or a successor, or executors of such an initial entrant or successor, grants for abating financial loss which has been or will be suffered in consequence of occupation of converted land by such person.

(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 to this Scheme at the rate per hectare specified in the corresponding entry 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 the area aid application of that person 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 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) “Council Regulation 1251/99” means Council Regulation (EEC) No. 1251/99 establishing a support system for producers of certain arable crops;
  - (c) “set-aside payment” means, in relation to an area of land which is converted land, the compensatory payment provided for in Article 4(3) of Council Regulation 1251/99, as amended by Council Regulation (EC) 1672/00(a), which would be made in relation to that area were it not converted land; and
  - (d) “set-aside requirement” means the requirement to set land aside in accordance with Article 6(1) of Council Regulation 1251/99.

### **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 to this Scheme shall not exceed the maximum number specified in the corresponding entry 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

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(a) O.J. No. L 193, 29.7.00, p.13.

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 Scottish Forestry 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 year as the Scottish Ministers 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 Scottish Ministers may require.

### **Financial limits**

**12.—(1)** When by reason of the total of applications already approved or received, the Scottish Ministers are 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 during that period, which would result from the approval of any further application, they may decide—

- (a) that they will not accept for consideration any further application, or request to vary a conversion plan under paragraph 13, until a time subsequently specified by them; or
  - (b) that they will cease to approve, or postpone approval of, any such application or request submitted to them.
- (2) A decision by the Scottish Ministers 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 Edinburgh Gazette.

### **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 Scottish Ministers, vary the conversion plan with respect to that land in any manner that the Scottish Ministers 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 Scottish Ministers have approved an application it appears to them 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 Scottish Ministers may—

- (a) reduce or withhold any payment under this Scheme due to the applicant or the applicant's executors;
- (b) recover from any such person an amount equal to any payment made to such person under this Scheme or such part thereof as the Scottish Ministers may specify;
- (c) recover from a related participant or the executors of that participant, an amount equal to any payment made to that related participant or those executors under this Scheme or such part thereof as the Scottish Ministers may specify; and
- (d) terminate the participation in the Scheme of the applicant or the applicant's executors.

(2) If, at any time after the Scottish Ministers have approved an application, it appears to them that—

- (a) the applicant or the applicant’s executors, have without reasonable cause failed to carry out any undertaking given by any such person 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 Scottish Ministers become aware they would, were the application made at the first mentioned time, make the decision referred to in paragraph 7(2) in relation to the application,

the Scottish Ministers 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 the applicant’s executors;
- (b) recover from any such person an amount equal to any payment made to such person, or them under this Scheme or such part thereof as the Scottish Ministers may specify;
- (c) recover from a related participant or the executors of that participant, an amount equal to any payment made to that related participant or those executors under this Scheme or such part thereof as the Scottish Ministers may specify; and
- (d) terminate the participation in the Scheme of the applicant or the applicant’s 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 Scottish Ministers consider justify the failure referred to therein.

(6) Where Scottish Ministers terminate an undertaking under sub-paragraph (3) above, they may also prohibit the applicant from entering into any new undertaking for such period (not exceeding two years) from the date of the termination as the Scottish Ministers may specify.

(7) Where the Scottish Ministers are entitled under this paragraph to recover from any person any payment made under this Scheme, the Scottish Ministers 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 Scottish Ministers.

(8) In any case, where an amount falls to be paid to the Scottish Ministers, 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 the occupier is required by virtue of an undertaking to maintain in accordance with paragraph 8(b), shall permit any person duly authorised by the Scottish Ministers, accompanied by such persons acting under the instructions of such person as appears to the person so authorised to be necessary for the purpose, at all reasonable times and on production, if requested, of the authority of that person 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, accompany that person 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 and the Farm Woodland Premium Scheme 1992**

**16.** The Farm Woodland Premium Scheme 1992(a) and the Farm Woodland Premium Scheme 1997(b) shall be amended in accordance with the provisions of Schedule 3 to this Scheme.

*ALLAN WILSON*

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
19th March 2003

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(a) S.I. 1992/905.

(b) S.I. 1997/829, as amended by S.S.I. 2000/290.

SCHEDULE 1  
RATES OF GRANT

| <i>Column 1</i>   | <i>Column 2</i><br>£ |
|---|----------------------|
| Converted land formerly arable land or improved land if neither disadvantaged or severely disadvantaged before conversion | 300                  |
| Converted land formerly arable land or improved land—   |                      |
| (a) if disadvantaged before conversion  | 230                  |
| (b) if severely disadvantaged before conversion   | 160                  |
| Converted land formerly unimproved land whether or not disadvantaged or severely disadvantaged before conversion          | 60                   |

SCHEDULE 2  
MAXIMUM NUMBER OF PAYMENTS

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

## SCHEDULE 3

- 1.—(1) The Farm Woodland Premium Scheme 1992 shall be amended as follows.
- (2) For schedule 1 (rates of grant), there shall be substituted the following schedule:—

## “SCHEDULE 1

## RATES OF GRANT

| <i>Column 1</i>   | <i>Column 2</i><br>£ |
|---|----------------------|
| Converted land formerly arable land or improved land if neither disadvantaged or severely disadvantaged before conversion | 300                  |
| Converted land formerly arable land or improved land—   |                      |
| (a) if disadvantaged before conversion  | 230                  |
| (b) if severely disadvantaged before conversion   | 160                  |
| Converted land formerly unimproved land whether or not disadvantaged or severely disadvantaged before conversion          | 60                   |

- (3) For sub-paragraph 9(2B) there shall be substituted the following sub-paragraph:—

“(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(a);
- (b) “Council Regulation 1251/99” means Council Regulation (EEC) No. 1251/99(b) establishing a support system for producers of certain arable crops;
- (c) “set aside payment” means, in relation to an area of land which is converted land, the compensatory payment provided for in Article 4(3) of Council Regulation 1251/99, as amended by Council Regulation (EC) No. 1672/00, which would be made in relation to that area were it not converted land; and
- (d) “set-aside requirement” means the requirement to set land aside in accordance with Article 1 of Council Regulation 1251/99.”.

- 2.—(1) The Farm Woodland Premium Scheme 1997 shall be amended as follows.

- (2) After paragraph 7 there shall be inserted the following paragraphs:—

## “Final date for receipt of applications

7A. The Scottish Ministers shall not approve an application to enter this Scheme under paragraph 3(1) where the application is received by them or, as the case may be, on their behalf after the coming into force of the SFGS Farmland Premium Scheme 2003.”.

- (a) Council Regulation (EEC) 3508/92 (O.J. No. L 355, 5.12.92, p.1) established an integrated administration and control system for certain community aid schemes O.J. No. L 355, 5.12.92, p.1, amended by Council Regulation (EC) No. 165/1994 (O.J. No. L 24, 29.1.94, p.6), Council Regulation (EC) No. 3233/1994 (O.J. No. L 338, 28.12.94, p.13), Council Regulation (EC) No. 3235/1994 (O.J. No. L 338, 28.12.94, p.16), Council Regulation (EC) No. 3072/1995 (O.J. No. L 329, 30.12.95, p.18), Council Regulation (EC) No. 1577/1996 (O.J. No. L 206, 16.8.96, p.4), Council Regulation (EC) No. 2466/1996 (O.J. No. L 335, 24.12.96, p.1), Commission Regulation (EC) No. 613/1997 (O.J. No. L 94, 9.4.97, p.1), Council Regulation (EC) No. 820/1997 (O.J. No. L 117, 7.5.97, p.1), Council Regulation (EC) No. 1036/1999 (O.J. No. L 127, 21.5.99, p.4), Council Regulation (EC) No. 1593/00 (O.J. No. L 182, 21.7.00, p.4) and Council Regulation (EC) No. 495/2001 (O.J. No. L 072, 14.3.01, p.6).
- (b) O.J. No. L 160, 26.6.99, p.1. Council Regulation 1251/99 was amended by Council Regulations 2704/99 (O.J. No. L 327, 21.12.99, p.12), 1672/00 (O.J. No. L 193, 29.7.00, p.13 and 1038/01 (O.J. No. L 145, 31.5.01, p.16).

- (3) For schedule 1 (rates of grant), there shall be substituted the following schedule:–

“SCHEDULE 1  
RATES OF GRANT

| <i>Column 1</i>   | <i>Column 2</i><br>£ |
|---|----------------------|
| Converted land formerly arable land or improved land if neither disadvantaged or severely disadvantaged before conversion | 300                  |
| Converted land formerly arable land or improved land  |                      |
| (a) if disadvantaged before conversion  | 230                  |
| (b) if severely disadvantaged before conversion   | 160                  |
| Converted land formerly unimproved land whether or not disadvantaged or severely disadvantaged before conversion          | 60                   |

- (4) For sub-paragraph 9(4)(b) to (d) there shall be substituted the following sub-paragraphs:–
- “(b) “Council Regulation 1251/99” means Council Regulation (EEC) No. 1251/99(a) establishing a support system for producers of certain arable crops;
- (c) “set aside payment” means, in relation to an area of land which is converted land, the compensatory payment provided for in Article 4(3) of Council Regulation 1251/99, as amended by Council Regulation (EC) No. 1672/00, which would be made in relation to that area were it not converted land; and
- (d) “set-aside requirement” means the requirement to set land aside in accordance with Article 1 of Council Regulation 1251/99;”.

(a) O.J. No. L 160, 26.6.99, p.1. Council Regulation 1251/99 was amended by Council Regulations 2704/99 (O.J. No. L 327, 21.12.99, p.12), 1672/00 (O.J. No. L 193, 29.7.00, p.13) and 1038/01 (O.J. No. L 145, 31.5.01, p.16).

## EXPLANATORY NOTE

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

This Scheme extends to Scotland only. It provides for the payment of annual grants to abate financial losses incurred in consequence of the conversion of agricultural land (including common grazings) to use for woodlands. The Scheme complies with Council Regulation (EC) No. 1257/99 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAAGF).

This Scheme supersedes the Farm Woodland Premium Scheme 1997 (S.I. 1997/829) under which no further new applications may be accepted after the coming into force of this Scheme (paragraph 16 and Schedule 3, paragraph 2).

This Scheme provides for applications for grants in respect of eligible land (as defined in paragraph 2) to be made by occupiers of agricultural land carrying on agricultural businesses, and by grazings constables and grazings committees in respect of common grazings. An initial entrant must submit with the application a plan for the conversion of eligible land to woodlands, which must be consistent with proposals for conversion agreed by the applicant with the Forestry Commissioners for the purposes of the Scottish Forestry Grants 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 may apply for grant (paragraph 3(2)). An initial entrant must run an agricultural business, but is not required to maintain that agricultural business once the application has been approved, nor is a successor 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 the 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 Scotland 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 (O.J. L 355, 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. However, in this Scheme, where an applicant lets land on a grazing 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);
- (c) classifies eligible land types into: arable land, improved land, and unimproved land (paragraphs 2, 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 by reference to designated maps. The maps are available for inspection during normal office hours at the address 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 6(1) of Council Regulation (EEC) 1251/99 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 4(3) 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 Scottish Ministers (paragraph 13);
- (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 Scottish Ministers, for the purposes of verifying accuracy of particulars and ensuring compliance with requirements (paragraph 15).

The scheme also amends the Farm Woodland Premium Scheme 1992 (S.I. 1992/905) and the Farm Woodland Premium Scheme 1997 (S.I. 1997/829) by amending the rates of payment under those Schemes.

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**The SFGS Farmland Premium Scheme 2003**

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