
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 143

AGRICULTURE

The Organic Aid (Scotland) Regulations 2004

Made - - - - - *24th March 2004*
Laid before the Scottish
Parliament - - - - - *25th March 2004*
Coming into force - - - - - *1st May 2004*

The Scottish Ministers in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 ^{M1} and of all other powers enabling them in that behalf, hereby make the following Regulations:

Marginal Citations

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

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Organic Aid (Scotland) Regulations 2004 and shall come into force on 1st May 2004.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“application” means an application for grant under these Regulations, and “applicant” and “apply” shall be construed accordingly;

“authorised person” means a person who is authorised by the Scottish Ministers, either generally or specifically, to act in relation to matters arising under these Regulations;

“beneficiary” means—

(a) a person or grazings committee whose application for a grant in respect of any farm or part of a farm has been accepted by the Scottish Ministers; or

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- (b) a person who occupies a farm or part of a farm following a change of occupation of that farm or part and whose undertaking to comply with the obligations relating to that farm or part assumed by its previous occupier has been accepted by the Scottish Ministers under regulation 16(1);

“capital grant” means a grant for carrying out activities specified in column 1 of Schedule 1;

“Commission Regulation” means Commission Regulation (EC) No. 445/2002^{M2} laying down detailed rules for the application of Regulation 1257/99, as amended by Commission Regulation (EC) No. 567/2003^{M3} and Commission Regulation (EC) No. 963/2003^{M4};

“conversion grant” means a grant for converting a farm or part of a farm to organic farming methods;

“conversion plan” means a report which identifies how a farm or part of a farm will be converted to being fully organic over a period of at least two years;

“date of entry into the conversion part of the scheme” means 1st September following the applicant’s making of the application for the conversion grant;

“date of entry into the maintenance part of the scheme” means—

- (a) where an applicant applies for the maintenance grant during the specified period of an undertaking given under the 1994 Regulations, the later of—

- (i) 1st September following the applicant’s making of the application for the maintenance grant; and

- (ii) the earlier of—

(aa) the day after the end of the specified period of the undertaking; and

(bb) 1st November following the applicant’s making of the application for the maintenance grant; and

- (b) in all other cases, 1st September following the applicant’s making of the application for the maintenance grant;

“date of registration” means the date on which an applicant for a conversion grant or a beneficiary first registered the farm or part of a farm which is the subject of the application with a private inspection body;

“eligible arable land” means eligible land within the meaning of regulation 2(1) of the Arable Area Payments Regulations 1996^{M5};

“farm” includes a common grazing;

“first certificate of registration” means a certificate of registration issued by a private inspection body for the period commencing with the date of registration in respect of a farm or part of a farm which is the subject of an application for a conversion grant;

“fully organic” means able to produce products entitled to bear indications referring to the organic production method in terms of Regulation 2092/91;

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

“holding” means all the production units farmed by an applicant or beneficiary;

“improved grassland” means either land used for grazing where over one third of the sward comprises, singly or in mixture, ryegrass, coxfoot 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;

“landlord” means—

- (a) in the case of agricultural land to which the 2003 Act applies and the 1991 Act does not apply, the landlord within the meaning of section 93 of the 2003 Act;
- (b) in the case of an agricultural holding to which the 1991 Act applies, the landlord within the meaning of section 85 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;

“LIBOR”, in relation to any particular day of the month, means the rate of interest per centum notified by the Bank of England on the first working day of the month, provided if necessary to two decimal places;

“maintenance grant” means a grant for maintaining organic farming methods on a farm or part of a farm;

“organic farming methods” means the methods of farming which comply with Regulation 2092/91 and the Organic Standards Compendium;

“organic production unit” means land, other than a common grazing, which is fully organic;

“private inspection body” means a private inspection body which holds a current approval under Article 9 (national inspection system for organic farming) of Regulation 2092/91 from the Scottish Ministers;

“production unit” means land, other than a common grazing, farmed in Scotland by an applicant or beneficiary which has been accepted by a private inspection body as viable for conversion to organic farming methods;

“Regulation 2092/91” has the same meaning as it has in Schedule 2;

“Regulation 1257/99 means Council Regulation (EC) No. 1257/99 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGFF) and amending and repealing certain Regulations ^{M6} as amended by Council Regulation (EC) No. 1783/2003^{M7};

“Regulation 2419/2001” means Commission Regulation (EC) No. 2419/2001^{M8} laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes established by Council Regulation (EEC) No. 3508/92, as amended by Commission Regulation (EC) No. 2550/2001^{M9};

“rough grazings” means land containing semi-natural vegetation including heathland, heather moorland, bog and rough grassland used or suitable for use as grazing;

“scheme” means the scheme to encourage organic farming methods as authorised under Articles 22 to 24 of Regulation 1257/99 and provided by these Regulations;

“Scottish Natural Heritage” means Scottish Natural Heritage established under section 1 of the Natural Heritage (Scotland) Act 1991 ^{M10};

“site of special scientific interest” means land designated as a site of special scientific interest pursuant to section 28 of the Wildlife and Countryside Act 1981 ^{M11};

“specified conversion period” means the period of five years commencing on the date of registration;

“specified maintenance period” means the period of five years commencing on the date the applicant for a maintenance grant proposes to assume the obligations under the undertaking

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to be granted under regulation 9 as specified in the application for maintenance grant in terms of regulation 11(1)(d)(ii);

“specified period” in relation to undertakings given under the 1994 Regulations, has the same meaning as it has in regulation 2(1) of the 1994 Regulations;

“tenant” means–

- (a) in the case of agricultural land to which the 2003 Act applies and the 1991 Act does not apply, the tenant within the meaning of section 93 of the 2003 Act;
- (b) in the case of an agricultural holding to which the 1991 Act applies, the tenant within the meaning of section 85 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;

“the 1911 Act” means the Small Landholders (Scotland) Act 1911 ^{M12};

“the 1991 Act” means the Agricultural Holdings (Scotland) Act 1991 ^{M13};

“the 1993 Act” means the Crofters (Scotland) Act 1993 ^{M14};

“the 1994 Regulations” means the Organic Aid (Scotland) Regulations 1994 ^{M15};

“the 2003 Act” means the Agricultural Holdings (Scotland) Act 2003 ^{M16};

“the Crofters Commission” means the Crofters Commission established under section 1 of the Crofters (Scotland) Act 1955 ^{M17}

“the Organic Standards Compendium” means the Compendium of UK Organic Standards, December 2003 edition, published by the Department of Environment, Food and Rural Affairs;

“the Scottish Environment Protection Agency” means the Scottish Environment Protection Agency established under section 20 of the Environment Act 1995 ^{M18};

“unimproved grassland” means land used for grazing or mowing which does not constitute improved pasture or rough grazing;

“vegetable and fruit land” means land used for growing vegetables or fruit.

(2) In these Regulations–

- (a) any reference to a numbered regulation or to a numbered Schedule is a reference to the regulation or Schedule in these Regulations so numbered; and
- (b) a reference to a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which that reference occurs.

Marginal Citations

M2 O.J. No. L 74, 15.3.02, p.1.

M3 O.J. No. L 82, 29.3.03, p.11.

M4 O.J. No. L 138, 5.6.03, p.32.

M5 [S.I. 1996/3142](#) as amended by [S.I. 1997/2969](#), 1998/3169, 1999/8, 2000/2573, 2001/430 and 3686, 2002/3159 and [S.S.I. 2001/390](#).

M6 O.J. No. L 160, 26.6.99, p.80.

M7 O.J. No. L 270, 21.10.03, p.70.

M8 O.J. No. L 327, 12.12.01, p.11.

M9 O.J. No. L 341, 22.12.01, p.105.

- M10** 1991 c. 28.
- M11** 1981 c. 69.
- M12** 1911 c. 49.
- M13** 1991 c. 55 as amended by the 2003 Act.
- M14** 1993 c. 44.
- M15** S.I. 1994/1701 as amended by S.I. 1996/3083 and 1999/107.
- M16** 2003 asp 11.
- M17** 1955 c. 21.
- M18** 1995 c. 25.

Application

3.—(1) These Regulations apply with effect from the coming into force date of these Regulations—

- (a) to any undertaking given under the 1994 Regulations before the coming into force date of these Regulations but only in respect of payments made on or after the coming into force date of these Regulations; and
- (b) to any undertaking given under these Regulations.

(2) Subject to paragraph (3), aid payable in respect of any undertaking given under the 1994 Regulations shall be calculated in accordance with Schedule 3.

(3) Paragraph (4) applies in relation to the sum payable in any year of an undertaking given under the 1994 Regulations where the application of these Regulations to that undertaking by virtue of paragraphs (1)(a) and (2) would result in the sum of the aid payable for that year being of a lesser amount than the sum of the aid which would have been payable if calculated under the provisions of the 1994 Regulations.

(4) Where this paragraph applies in relation to the sum payable in any year of an undertaking, the sum of the aid payable in that year under these Regulations shall be increased to the amount of the sum which would have been payable if calculated under the provisions of the 1994 Regulations.

Aid for organic farming

4.—(1) Subject to the provisions of these Regulations, the Scottish Ministers may make payments of conversion grant under the scheme to—

- (a) an applicant who—
 - (i) satisfies the conditions of eligibility for a conversion grant specified in regulation 5;
 - (ii) has given the undertakings set out in regulation 6; and
 - (iii) has made an application in accordance with regulation 11 which has been accepted by the Scottish Ministers under regulation 13; or
- (b) a person whose undertaking to comply with the obligations relating to a farm or part of a farm assumed under regulation 6 by a previous occupier of the farm or part has been accepted by the Scottish Ministers under regulation 16(1).

(2) Subject to the provisions of these Regulations, the Scottish Ministers may make payments of capital grant under the scheme to—

- (a) an applicant to whom they are entitled to make payments of conversion grant under paragraph (1)(a) who—
 - (i) has given the undertakings set out in regulation [F17]; and
 - (ii) has made an application for capital grant in accordance with regulation 11 which has been accepted by the Scottish Ministers under regulation 13; or

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- (b) a person to whom they are entitled to make payments of conversion grant under paragraph (1)(b) whose undertaking to comply with the obligations relating to a farm or part of a farm assumed under regulation 7 by a previous occupier has been accepted by the Scottish Ministers under regulation 16(1).
- (3) Subject to the provisions of these Regulations, the Scottish Ministers may make payments of maintenance grant under the scheme to—
- (a) an applicant who—
- (i) satisfies the conditions of eligibility for a maintenance grant specified in regulation 8;
 - (ii) has given the undertakings set out in regulation 9; and
 - (iii) has made an application in accordance with regulation 11 which has been accepted by the Scottish Ministers under regulation 13; or
- (b) a person whose undertaking to comply with the obligations relating to a farm or part of a farm assumed under regulation 9 by a previous occupier has been accepted by the Scottish Ministers under regulation 16(1).
- (4) Subject to the provisions of these Regulations, the Scottish Ministers may contribute towards the cost of preparing the conversion plan included in an application for a conversion grant where such conversion plan has been professionally prepared in accordance with any requirements made by the Scottish Ministers as to the form or content of such conversion plan.

Textual Amendments

- F1** Word in reg. 4(2)(a)(i) substituted (1.5.2004) by [The Organic Aid \(Scotland\) Amendment Regulations 2004 \(S.S.I. 2004/174\)](#), regs. 1, 2

Conditions of eligibility for conversion grant

- 5.—(1)** Subject to regulation 15(2), an applicant shall be eligible to make an application for a conversion grant if at the date of application the applicant—
- (a) is either—
- (i) the owner of a production unit and in lawful actual occupation of that production unit;
 - (ii) the tenant of a production unit under a lease which will run at least until the end of the specified conversion period or with security of tenure by virtue of any statutory provision until then and in either case is in lawful actual occupation of that production unit; or
 - (iii) subject to regulation 10, a grazings committee;
- (b) is entering into the scheme a farm or part of a farm which is eligible for a conversion grant in terms of paragraph (2);
- (c) is not prohibited from giving the undertaking set out in regulation 6 by application of a penalty pursuant to Article 64 (which requires Member States to determine a system of penalties for breaches of the obligations entered into under, and of regulatory provisions of, the Commission Regulation) of the Commission Regulation or by a decision of the Scottish Ministers under regulation 20(4); and
- (d) is not excluded from all aid under Chapter VI of Title II of Regulation 1257/99 by virtue of Article 63 (which requires a person who, intentionally or by reason of serious negligence, makes a false declaration to be excluded from all rural development measures falling under the relevant chapter of Regulation 1257/99) or 64 of the Commission Regulation.

(2) Subject to regulation 15(2), for the purposes of paragraph (1)(b), a farm or part of a farm is eligible for a conversion grant if—

- (a) it is a production unit or, if the applicant is a grazings committee, a common grazing which has been accepted by a private inspection body as viable for conversion to organic farming methods;
- (b) it extends to not less than one hectare;
- (c) the first certificate of registration for the farm or part of a farm is issued after the applicant makes the application for the conversion grant;
- (d) it will take at least 2 years from the date of registration to convert the farm or part of a farm to being fully organic;
- (e) the first certificate of registration for the farm or part of a farm is received by the Scottish Ministers before 31st March following the Scottish Ministers' decision to accept the application for a conversion grant for that farm or part; and
- (f) the farm or part of a farm has not been fully organic at any time during the period beginning on 10th August 1993 and ending with the date of registration.

Undertakings by applicants for conversion grants

6. Subject to regulation 15(1), the applicant for a conversion grant shall undertake—
- (a) to convert the farm or part of a farm to which the application relates to organic farming methods in accordance with the conversion plan provided for that farm or part in the application for the conversion grant;
 - (b) to continue with organic farming methods on that farm or part of a farm for the specified conversion period;
 - (c) to comply, during the specified period, with any additional conditions specified by the Scottish Ministers under regulation 13(2);
 - (d) to keep the farm or part of a farm to which the application relates registered with a private inspection body at all times during the specified conversion period;
 - (e) except in the case of the first certificate of registration, to send to the Scottish Ministers the certificate of registration for each year of the specified conversion period so that it is received by the Scottish Ministers within 12 months of the date on which it is issued;
 - (f) to farm the applicant's holding in accordance with the obligations set out in Schedule 4 for the specified conversion period; and
 - (g) to comply with any relevant requirements of Regulation 1257/99 or the Commission Regulation during the specified conversion period.

Undertakings by applicants for capital grants

7. Subject to regulation 15(1), the applicant for a capital grant shall undertake—
- (a) to carry out any of the activities specified in column 1 of Schedule 1 which are—
 - (i) included in the application in terms of regulation 11(1)(c)(iii); and
 - (ii) approved for that application by the Scottish Ministers,on the farm or part of a farm to which the application for conversion grant relates in accordance with the requirements specified in column 2 of Schedule 1 in relation to that activity, within the first year of the specified conversion period;
 - (b) to comply, during the specified conversion period, with any additional conditions specified by the Scottish Ministers under regulation 13(2);

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- (c) to comply with the undertaking given under regulation 6 in respect of the relevant farm or part of a farm during the specified conversion period; and
- (d) to comply with any relevant requirements of Regulation 1257/99 or the Commission Regulation during the specified conversion period.

Conditions of eligibility for maintenance grant

8.—(1) Subject to regulation 15(3) and (4), an applicant shall be eligible to make an application for a maintenance grant if at the date of application the applicant—

- (a) is either—
 - (i) the owner of an organic production unit and in lawful actual occupation of that organic production unit;
 - (ii) the tenant of an organic production unit under a lease which will run at least until the end of the specified maintenance period or with security of tenure by virtue of any statutory provision until then and in either case is in lawful actual occupation of that organic production unit; or
 - (iii) subject to regulation 10, a grazings committee;
- (b) is entering into the scheme a farm or part of a farm which is eligible for a maintenance grant in terms of paragraph (2);
- (c) holds a current certificate of registration in respect of the relevant farm or part of a farm;
- (d) is not prohibited from giving the undertaking set out in regulation 9 by application of a penalty pursuant to Article 64 (which requires Member States to determine a system of penalties for breaches of the obligations entered into under, and of regulatory provisions of, the Commission Regulation) of the Commission Regulation or by a decision of the Scottish Ministers under regulation 20(4); and
- (e) is not excluded from all aid under Chapter VI of Title II of Regulation 1257/99 by virtue of Article 63 (which requires a person who, intentionally or by reason of serious negligence, makes a false declaration to be excluded from all rural development measures falling under the relevant chapter of Regulation 1257/99) or 64 of the Commission Regulation.

(2) Subject to regulation 15(3), for the purposes of paragraph (1)(b), a farm or part of a farm is eligible for a maintenance grant if—

- (a) it is an organic production unit, or if the applicant is a grazings committee, a common grazing which is fully organic;
- (b) it extends to not less than one hectare; and
- (c) either—
 - (i) no conversion grant is payable in respect of that farm or part; or
 - (ii) conversion grant is payable in respect of that farm or part but the specified conversion period has ended or will have ended before the specified maintenance period starts.

Undertakings by applicants for maintenance grants

9. Subject to regulation 15(5) the applicant for a maintenance grant shall undertake—

- (a) to continue with organic farming methods on the farm or part of a farm to which the application relates for the specified maintenance period;
- (b) to comply, during the specified maintenance period, with any additional conditions specified by the Scottish Ministers under regulation 13(2);

- (c) to keep the farm or part of a farm to which the application relates registered with a private inspection body at all times during the specified maintenance period;
- (d) to send to the Scottish Ministers the certificate of registration for each year of the specified maintenance period so that it is received by the Scottish Ministers within 12 months of the date on which it is issued;
- (e) to farm the farm or part of a farm in accordance with the obligations set out in Schedule 5 for the specified maintenance period;
- (f) to farm the applicant's holding in accordance with the obligations set out in Schedule 4 for the specified maintenance period; and
- (g) to comply with any relevant requirements of Regulation 2092/91 or the Commission Regulation during the specified maintenance period.

Crofters common grazings

10.—(1) Subject to paragraph (4), a grazings committee shall be eligible to apply for a grant in relation to a common grazing for which the grazings committee is responsible, with the consent of a majority of the crofters ordinarily resident in the township and sharing in the common grazing.

(2) All obligations undertaken by a grazings committee in applying to enter the scheme shall be binding upon their successors in office.

(3) Subject to paragraph (4), payments of grant to a grazings committee shall be divided by them among the crofters who share in the common grazing in such proportion as may be determined by the grazings committee.

(4) Where a grazings committee proposes to apply for a grant they shall prior to making the application give notice of their intention to do so and of their proposed division of grant under paragraph (3) by advertisement or otherwise to the crofters ordinarily resident in the township and sharing in the common grazing, and any such crofter may within one month of the date of such notice make representations in respect of the proposals to the Crofters Commission who may approve the proposals with or without modification or reject them.

(5) Where the Crofters Commission receives representations under regulation 10(4) in respect of a proposal to apply for a grant, the grazings committee shall only be eligible to apply for a grant for the proposal, incorporating any modification made by the Crofters Commission, approved by the Crofters Commission under paragraph (4).

(6) Where the Scottish Ministers have accepted an application by a grazings committee and accepted an undertaking under these Regulations from a grazings committee, the actings in relation to the relevant common grazing or part of the common grazing of any crofter with a share in that common grazing or part, and any breach of the undertaking by such a crofter, shall be deemed to be the actings of, or a breach by, the grazings committee for the purposes of these Regulations.

Applications for grants

11.—(1) An application for a grant under these Regulations shall be made in writing, in such form and at such time as the Scottish Ministers reasonably may require and shall include—

- (a) a map clearly showing—
 - (i) the boundaries of the applicant's holding;
 - (ii) the boundaries of the applicant's farm, together with any internal field boundaries;
 - (iii) the areas of arable land, improved grassland, rough grazing, unimproved grassland and vegetable and fruit land;
 - (iv) the area of land, if any, which is already farmed using organic farming methods;

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- (v) the area of land, if any, which is already fully organic;
- (vi) the area of land, if any, on which organic farming methods are to be introduced;
- (vii) the area of land, if any, which is in the course of conversion to organic farming methods;
- (viii) the areas of land, if any, referred to in regulation 15(1)(a), on which organic farming methods are to be phased in; and
- (ix) the areas of land, if any, referred to in regulation 15(5) for which entry into the maintenance part of the scheme is to be phased;
- (b) a written statement with details of the total area of the applicant's farm and of the areas of land referred to in paragraph (1)(a)(iii) to (ix) as appropriate;
- (c) in the case of an application for a conversion grant—
 - (i) a written statement of the conversion plan;
 - (ii) confirmation from a private inspection body—
 - (aa) that the conversion proposals will convert the farm or part of a farm to being fully organic; and
 - (bb) the date on which the farm or part of a farm is expected to become fully organic;
 - (iii) any activities described in column 1 of Schedule 1 which are essential for the applicant's conversion plan together with a map clearly showing where such activities will take place; and
 - (iv) the information referred to in regulation 15(1)(b), where applicable;
- (d) in the case of an application for a maintenance grant—
 - (i) a current certificate of registration from a private inspection body for the relevant farm or part of a farm;
 - (ii) the date on which the applicant proposes to assume the obligations under the undertaking to be granted under regulation 9 (or in an application for phased entry into the maintenance part of the scheme, the date on which the applicant proposes to assume the obligations for the first area of land as identified under regulation 15(5) (b) under the undertaking to be granted under regulation 9) which date shall be—
 - (aa) after the date of the application for maintenance grant;
 - (bb) after the end of the specified conversion period or, in the case of a farm or part of a farm for which aid has been payable under the 1994 Regulations, the specified period for that farm or part of a farm, where applicable; and
 - (cc) before 31st March following the date on which the Scottish Ministers accept the application for maintenance grant; and
 - (iii) the information referred to in regulation 15(5)(a) and (b), where applicable; and
- (e) where an application is made by a grazings committee—
 - (i) the written consent of a majority of the crofters ordinarily resident in the township and sharing in the common grazing to the application relates;
 - (ii) evidence that notice has been given in accordance with regulation 10(4); and
 - (iii) confirmation from the Crofters Commission that the Crofters Commission has approved the proposals in the application under regulation 10(4) or, as the case may be, has received no representations under regulation 10(4).

(2) An applicant shall furnish the Scottish Ministers with such further information and evidence in relation to the application as the Scottish Ministers reasonably may require.

(3) The Scottish Ministers may at any time suspend the operation of the scheme and, while so suspended, no application shall be accepted by them.

Restrictions on acceptance of applications

12.—(1) The Scottish Ministers shall not accept an application—

- (a) from an applicant who occupies the farm or part of a farm as a tenant unless the Scottish Ministers are satisfied that such applicant has notified the landlord, and in the case of a sub tenant, the owner of the land and the mid landlord, in writing of the making of such application;
- (b) where the use of any land in accordance with the proposals contained in that application would frustrate the purposes of any assistance previously given or to be given out of money provided by or under any statutory provision or by the European Community;
- (c) where payment of grant under these Regulations would duplicate any assistance previously given or to be given out of money provided by or under any statutory provision or by the European Community;
- (d) where the applicant is prohibited from giving the relevant undertaking under these Regulations by application of a penalty consequent upon Article 64 (which requires Member States to determine a system of penalties for breaches of the obligations entered into under, and of regulatory provisions of, the Commission Regulation) of the Commission Regulation or by a decision of the Scottish Ministers under regulation 20(4); or
- (e) where the applicant is excluded from all aid under Chapter VI of Title II of Regulation 1257/99 by virtue of Article 63 (which requires a person who, intentionally or by reason of serious negligence, makes a false declaration to be excluded from all rural development measures falling under the relevant chapter of Regulation 1257/99) or 64 of the Commission Regulation.

(2) For the purpose of paragraph (1)(c), a sum duplicates such assistance if it is, or would be, paid for any of the same purposes.

Determination of applications for aid

13.—(1) The Scottish Ministers may accept, accept in part or reject an application and in determining whether an application should be so accepted or rejected, they shall have regard to—

- (a) the environmental benefits expected to be derived from the carrying out of the activities described in the application;
- (b) the grant likely to be paid and how that value compares with other applications; and
- (c) the value for money which the undertaking to be entered into represents having regard to sub-paragraphs (a) and (b).

(2) Acceptance of an application may be subject to such conditions as the Scottish Ministers think fit.

Amounts of payments and claims

14.—(1) Subject to regulations 15(3) and (6), 16(7) and 20(1)—

- (a) payments of conversion, capital and maintenance grant, except the first payment of capital grant, shall be made annually in arrears—

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- (i) the first payment of conversion grant being made on the first anniversary of the date of entry into the conversion part of the scheme;
 - (ii) the second payment of capital grant being made on the first anniversary of the date of entry into the conversion part of the scheme; and
 - (iii) the first payment of maintenance grant being made on the first anniversary of the date of entry into the maintenance part of the scheme; and
 - (b) payment of the first payment of capital grant shall be made on the later of—
 - (i) the date of entry into the conversion part of the scheme; and
 - (ii) seven days after the Scottish Ministers receive the first certificate of registration for the relevant farm or part of a farm.
- (2) Subject to paragraphs (3) to (5) and regulation 15(3) and (6), the amount of each payment—
 - (a) of conversion grant shall be calculated in accordance with Schedule 3;
 - (b) of capital grant shall be calculated in accordance with Schedule 6; and
 - (c) of maintenance grant shall be calculated in accordance with Schedule 7.
- (3) Payments of conversion grant shall be made in respect of a maximum of 1000 hectares per holding or common grazing and within this maximum, payments in relation to eligible arable land, improved grassland and vegetable and fruit land shall not be made in respect of more than 300 hectares of any such land, taken together or separately.
- (4) Payments of maintenance grant shall be made in respect of a maximum of 1000 hectares per holding or common grazing and within this maximum, payments in relation to eligible arable land, improved grassland and vegetable and fruit land shall not be made in respect of more than 300 hectares of any such land, taken together or separately.
- (5) The cumulative total amount of capital grant payable in respect of any holding or common grazing shall not exceed £2,800.
- (6) A claim for each payment under paragraph (1) shall be made at such time and in such form and shall contain such information as the Scottish Ministers reasonably may require.
- (7) Subject to regulation 15(3) and (6), payment as provided in paragraph (1) shall be made only where the Scottish Ministers are satisfied that the relevant undertaking has been complied with.
- (8) The amount payable under regulation 4(4) in respect of a conversion plan—
 - (a) to convert a farm or part of a farm of 10 hectares or less to organic farming methods shall be the lesser of—
 - (i) the greater of—
 - (aa) 75 per cent of the cost of preparing the conversion plan; and
 - (bb) £150; and
 - (ii) £225; and
 - (b) to convert a farm or part of a farm or more than 10 hectares to organic farming methods shall be the lesser of—
 - (i) 50 per cent of the cost of preparing the conversion plan; and
 - (ii) £300.
- (9) Only one payment under regulation 4(4) shall be made for any holding.
- (10) A claim for a payment under regulation 4(4) shall be made at such time and in such form as the Scottish Ministers reasonably may require and shall contain—
 - (a) a receipted invoice disclosing the cost of the conversion plan; and

(b) such other information as the Scottish Ministers reasonably may require.

(11) The provisions of this regulation are subject to Article 37 (compatibility and consistency of aid) of Regulation 1257/99 and Articles 35 and 36 (combination of aids) of the Commission Regulation.

Phased conversions and phased entry into the maintenance part of the scheme

15.—(1) Where an applicant for a conversion grant wishes to convert the relevant production unit or common grazing to organic farming methods in phases, the applicant shall—

- (a) divide the production unit or common grazing into no more than 5 areas of land;
- (b) nominate in the application the order in which these areas of land will be converted to organic farming methods; and
- (c) where the application for a conversion grant is accepted by the Scottish Ministers, give the undertakings specified in regulations 6 and 7 for the whole production unit or common grazing except that the specified conversion period in the undertakings in respect of each area of land shall be the period specified in column 2 of Schedule 8 for the corresponding area of land specified in column 1 of that Schedule.

(2) Where an applicant for a conversion grant applies to convert the relevant production unit or common grazing to organic farming methods in phases—

- (a) the specified conversion period referred to in regulation 5(1)(a)(ii) shall be deemed to be the period specified in column 2 of Schedule 8 for the last area of land to be converted; and
- (b) each area of land referred to in paragraph (1)(a) shall be deemed to be a separate production unit or common grazing for the purposes of regulation 5(2)(f).

(3) Where the Scottish Ministers accept an application for phased conversion of a production unit or common grazing—

- (a) subject to paragraph (5)(a) and (b), the specified maintenance period referred to in regulation 8(1)(a)(ii) shall be deemed to be the period specified in column 4 of Schedule 8 for the last area of land to enter the maintenance part of the scheme;
- (b) each area of land identified in terms of paragraph (1)(a) shall be deemed to be a separate production unit or common grazing for the purposes of regulations 8(2)(a) and (c) and 14(1) and (2);
- (c) for the purposes of regulation 8(2)(c) the specified conversion period for each area of land shall be the period specified in column 2 of Schedule 8 for the corresponding area specified in column 1 of that Schedule, and the specified maintenance period for each area of land shall be the period specified in column 4 of Schedule 8 for the corresponding area specified in column 1 of that Schedule;
- (d) for the purposes of regulation 14 the date of entry into the conversion part of the scheme for each area of land shall be deemed to be the date specified in column 3 of Schedule 8 for the corresponding area of land specified in column 1 of that Schedule; and
- (e) for the purposes of paragraph 7 of Schedule 4 the fifth anniversary of the date of entry into the conversion part of the scheme shall be deemed to be the fifth anniversary of the date specified in column 3 of Schedule 8 for the last area of land to be converted.

(4) An applicant for a maintenance grant who wishes to phase entry of the organic production unit or common grazing into the maintenance part of the scheme may do so if in addition to satisfying the conditions in regulation 8 and giving the undertakings set out in regulation 9—

- (a) the conversion of the relevant production unit or common grazing to organic farming methods has been phased either under these Regulations or the 1994 Regulations;

Status: Point in time view as at 01/05/2004.

Changes to legislation: There are currently no known outstanding effects for the The Organic Aid (Scotland) Regulations 2004. (See end of Document for details)

- (b) if conversion of the relevant production unit or common grazing to organic farming methods has been phased under these Regulations, the period specified in the entry in column 2 of Schedule 8 corresponding to the last area of land to be converted specified in column 1 of that Schedule, has not ended; and
 - (c) if conversion of the relevant production unit or common grazing to organic farming methods has been phased under the 1994 Regulations, the specified period for the last area of land to be converted has not ended.
- (5) Where an applicant for a maintenance grant is entitled to phase entry into the maintenance scheme the applicant may do so by—
- (a) identifying in the application the areas of land which have been and are being converted to organic farming methods in phases either under these Regulations or the 1994 Regulations and identifying in the application the order in which these areas of land will enter the maintenance part of the scheme which order shall be the same order as the order in which the areas of land were converted to organic farming methods, subject to sub paragraph (b);
 - (b) identifying the areas of land referred to in sub-paragraph (a) which fall within regulation 8(2)(c) before the start of the period specified in column 4 of Schedule 8 for the first area of land shall be part of the first area of land and the order in which the other areas of land shall enter the maintenance part of the scheme shall be amended accordingly;
 - (c) subject to sub-paragraph (b), where the application for a maintenance grant is accepted by the Scottish Ministers, giving the undertaking specified in regulation 9 for the whole production unit or common grazing except that the specified maintenance period in the undertaking for each area of land shall be the period specified in column 4 of Schedule 8 for the corresponding area of land specified in column 1 of that Schedule.
- (6) Where the Scottish Ministers accept an application for phased entry into the maintenance part of the scheme of a production unit or common grazing—
- (a) each area of land identified as a separate area of land in terms of paragraph (5)(b) shall be deemed to be a separate organic production unit or common grazing for the purposes of regulation 14(1) and (2);
 - (b) for the purposes of regulation 14 the date of entry into the maintenance part of the scheme for each area of land identified as a separate area of land in terms of paragraph (5)(b) shall be deemed to be the date specified in column 5 of Schedule 8 for the corresponding area of land specified in column 1 of that Schedule; and
 - (c) for the purposes of paragraph 7 of Schedule 4 the fifth anniversary of the date of entry into the maintenance part of the scheme shall be deemed to be the fifth anniversary of the date specified in column 5 of Schedule 8 for the last area of land to enter the maintenance part of the scheme.

Change of occupation

16.—(1) Where there is a change of occupation, during the specified conversion period or the specified maintenance period, as the case may be, of the whole or part of a farm or part of a farm in respect of which an undertaking has been given under these Regulations—

- (a) the former occupier (or, if the former occupier has died, the former occupier's executors) shall within 3 months notify the Scottish Ministers in writing of the change of occupation, and shall supply to the Scottish Ministers such information relating to that change of occupation in such form and within such period as the Scottish Ministers reasonably may require;
- (b) subject to the provisions of this regulation, the new occupier of the farm or part of a farm may give an undertaking to the Scottish Ministers to comply, for the remainder of the

specified conversion period or specified maintenance period, as the case may, with the obligations assumed by the former occupier under an undertaking relating to that farm or part of a farm; and

- (c) subject to the provisions of this regulation, the Scottish Ministers shall accept an undertaking from the new occupier.

(2) Where occupation of the farm or part of a farm in respect of which an undertaking has been given under these Regulations is divided, the Scottish Ministers shall determine the extent to which the obligations in the undertaking relate to any part, having regard to—

- (a) the area of land comprised in that part and in the remainder of the original farm or part of a farm; and
(b) the use to which that part is put.

(3) The Scottish Ministers shall not accept an undertaking from a new occupier of a farm or part of a farm to comply with the obligations assumed by the former occupier unless they are satisfied that—

- (a) the new occupier occupies the farm or part of a farm as an owner or tenant, or as the executor of the former occupier;
(b) the former occupier has complied with the undertaking to the date of the change of occupation; and
(c) the new occupier has since the date of the change of occupation complied with the undertaking.

(4) The Scottish Ministers shall not accept an undertaking from a new occupier of a farm or part of a farm—

- (a) unless—
(i) the new occupier complies with the conditions in regulation 5(1)(a), (c) and (d) and the farm or part of a farm complies with regulation 5(2)(e) in the case of a conversion grant or a capital grant; and
(ii) the new occupier complies with the conditions in regulation 8(1)(a) and (c) to (e) in the case of a maintenance grant;
(b) from a new occupier who occupies the farm or part of a farm as a tenant unless the Scottish Ministers are satisfied that the new occupier has notified the landlord, and in the case of a sub-tenant, the owner of the land and the mid-landlord, in writing that he intends to give the undertaking; or
(c) where payment of grant under these Regulations would duplicate any assistance previously given or to be given out of money provided by or under any statutory provision or by the European Community.

(5) A new occupier who wishes to undertake the obligations assumed by the former occupier or who gives an undertaking to comply with the obligations assumed by the former occupier shall—

- (a) undertake to farm the new occupier's holding in accordance with the obligations set out in Schedule 4 for the remainder of the specified conversion period or specified maintenance period as the case may be; and
(b) supply to the Scottish Ministers such information in such form and within such period following the change of occupation as the Scottish Ministers reasonably may require.

(6) Where the Scottish Ministers have accepted an undertaking from a new occupier to comply with the obligations assumed by the former occupier that undertaking to comply with the obligations assumed by the former occupier shall be deemed to take effect on the date of the acceptance by the Scottish Ministers of that undertaking.

Status: Point in time view as at 01/05/2004.

Changes to legislation: There are currently no known outstanding effects for the The Organic Aid (Scotland) Regulations 2004. (See end of Document for details)

(7) Where within 3 months from the date of change of occupation a new occupier has not given an undertaking to comply with the obligations assumed by the former occupier, the Scottish Ministers may—

- (a) withhold the whole or any part of any payment under these Regulations due to the former occupier in respect of the undertaking; and
- (b) recover from the former occupier or make a claim in the former occupier’s executry for the whole or any part of any payment awarded under these Regulations and already made to the former occupier in respect of the undertaking.

(8) Paragraph (7) shall not apply where the change of occupation of a farm or part of a farm is the result of—

- (a) the compulsory purchase of that farm or part of a farm;
- (b) the death of the former occupier and—
 - (i) that former occupier occupied that farm or part as a tenant; and
 - (ii) following the death of that former occupier the tenancy or lease under which the former occupier occupied that farm or part of a farm was terminated by the landlord under sections 11(6) or 12(3) of the 1991 Act or sections 21(2) or 22(2) of the 2003 Act;
- (c) resumption by the landlord under section 21(7)(a) of the 1991 Act or section 17(1) of the 2003 Act;
- (d) the termination of a tenancy following the operation of a notice to quit to which the Land Court has consented under section 22(1) of the 1991 Act having been satisfied as to any of the matters specified in section 24(1) of that Act or the termination of a tenancy following the service of a notice to quit under the provisions of section 22(2)(b) of that Act;
- (e) the resumption of a croft or part thereof which the Land Court has authorised as being for a reasonable purpose in terms of section 20 of the 1993 Act; or
- (f) the resumption of a small landholding or part thereof which the Land Court has authorised as being for a reasonable purpose in terms of section 2 of the Crofters Holdings (Scotland) Act 1886^{M19};

provided that the former occupier or the former occupier’s executor, as the case may be, notifies the Scottish Ministers in writing of the reason for the change of occupation within 10 working days of the date on which the former occupier or the former occupier’s executor is in a position to do so and provided that, if the Scottish Ministers so request, the former occupier or the former occupier’s executor, as the case may be, supplies the Scottish Ministers with relevant evidence of the reason for the change of occupation to the reasonable satisfaction of the Scottish Ministers.

(9) In the application of this regulation to a common grazing “change of occupation” includes the apportionment to a crofter of any land from the common grazing during the specified conversion period or the specified maintenance period, as the case may be, but does not include a change in the membership of the grazings committee.

(10) The provisions of this regulation are, in so far as the grants paid under these Regulations include aid under Regulation 1257/99, subject to Article 30 (transfer of holding) and Article 33 (force majeure) of the Commission Regulation and where by virtue of Article 30 a beneficiary is required to reimburse, in accordance with Article 62a(2) (recovery of undue payments) of the Commission Regulation and Article 49 (recovery of undue payments) of Regulation 2419/2001, the grant paid, the rate of interest shall be that provided in regulation 21(1).

(11) Where—

- (a) there has been a change of occupation of the whole or part of a farm or part of a farm to which an undertaking under these Regulations relates;

(b) the new occupier has, within 3 months of the date of change of occupation, undertaken to comply with the obligations of the former occupier; and

(c) the Scottish Ministers have accepted that undertaking of the new occupier,

the former occupier shall be released from the former occupier's undertaking except in respect of any breach or other matter occurring before the acceptance by the Scottish Ministers of the new occupier's undertaking.

Marginal Citations

M19 1886 c. 29; section 2 is to be read with the [Small Landholders \(Scotland\) Act 1911 \(c. 49\)](#), [section 19](#), and the [Small Landholders and Agricultural Holdings \(Scotland\) Act 1931 \(c. 44\)](#), [section 8\(1\)](#).

Powers of authorised persons

17.—(1) An authorised person may at all reasonable hours, on producing, if so required, some duly authenticated document showing the authorised person's authority, enter on any land—

- (a) to which an application or undertaking given under these Regulations relates; or
 - (b) on which the authorised person has reasonable grounds to believe that documents relating to an application or undertaking given under these Regulations are being kept, for any of the purposes mentioned in paragraph (2).
- (2) The purposes referred to in paragraph (1) are—
- (a) inspecting the land to which the application or undertaking relates;
 - (b) verifying the accuracy of any information provided by a beneficiary or on the beneficiary's behalf, relating to an application, a claim for aid or an undertaking given under these Regulations; and
 - (c) determining whether or not a beneficiary has complied with an undertaking given under these Regulations.
- (3) An authorised person who has entered any land under paragraph (1) may—
- (a) inspect the land and any premises, plant, machinery, equipment, document or record on it which that person reasonably believes relates to an application, a claim for aid or an undertaking given under these Regulations;
 - (b) require the beneficiary, or any employee or agent of such beneficiary, to produce, or secure the production of, any document or supply any additional information in the beneficiary's possession or under the beneficiary's control relating to an application, a claim for aid or an undertaking given under these Regulations, as the case may be;
 - (c) where any information referred to in sub paragraph (b) is kept by means of a computer, have access to any computer and any associated apparatus or material which is or has been used for storing that information and require that information to be reproduced in a form in which it may be easily read and can be taken away;
 - (d) require copies of or extracts from any such document or other record referred to in sub paragraphs (a) or (b) to be produced;
 - (e) retain a copy of any document produced to the authorised person; and
 - (f) seize and retain any document or other record which that person reasonably believes may be required as evidence in proceedings under these Regulations.

(4) A beneficiary or any employee or agent of such beneficiary shall give an authorised person all reasonable assistance in relation to the matters mentioned in paragraphs (1) and (3).

Status: Point in time view as at 01/05/2004.

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- (5) An authorised person entering any land under paragraph (1) may be accompanied by—
- (a) any official of the European Commission; and
 - (b) such other person as the authorised person considers necessary,
- and paragraphs (3) and (4) shall apply to that person when acting under the instructions of an authorised person as they apply to an authorised person.

Breaches of undertakings etc.

18.—(1) Subject to paragraph (2), where—

- (a) any information furnished to the Scottish Ministers by the beneficiary or on the beneficiary's behalf is false or misleading in a material respect;
- (b) the beneficiary is in breach of any of the terms of the undertaking given by the beneficiary under these Regulations;
- (c) the beneficiary is in breach of any requirement to which the beneficiary is subject under these Regulations or under Regulation 1257/99 or the Commission Regulation; or
- (d) the whole or any part of the sum paid or payable in respect of an undertaking given under these Regulations duplicates assistance provided or to be provided out of monies made available—
 - (i) by the European Community; or
 - (ii) under any statutory provision,

the Scottish Ministers may exercise any of the powers specified in regulation 20(1).

(2) For the purposes of paragraph (1)(d), a sum duplicates such assistance if it is, or would be, paid for any of the same purposes.

Other cases in which recovery etc. powers apply

19. The Scottish Ministers may exercise the powers specified in regulation 20(1) where they are satisfied that—

- (a) there has been a material change in the nature, scale, costs or timing of the activities in relation to which an undertaking has been given by the beneficiary; or
- (b) the activities in relation to which an undertaking has been given by the beneficiary are delayed, or are unlikely to be completed.

Scottish Ministers' powers of recovery etc.

20.—(1) The powers conferred by regulations 18(1) and 19 are—

- (a) to withhold the whole or any part of any sum payable to the beneficiary; and
- (b) to recover on demand the whole or any part of any sum already paid to the beneficiary.

(2) Where the powers specified in paragraph (1) are exercised further to regulation 18(1) and where in the view of the Scottish Ministers the conduct of the beneficiary was reckless or was carried out with the intention of breaching the requirements set out in that regulation, the Scottish Ministers may also by way of penalty imposed by virtue of Article 64 (which requires Member States to determine a system of penalties for breaches of the obligations entered into and regulatory provisions of the Commission Regulation) of the Commission Regulation require the beneficiary to pay to the Scottish Ministers an additional sum equal to no more than 10% of the grant paid or payable to the beneficiary.

(3) Where the Scottish Ministers take any step specified in paragraph (1), they may also suspend or terminate the undertaking, and thereupon any entitlement of the beneficiary to payment in respect

of the unexpired part of the specified conversion period or the specified maintenance period, as the case may be, shall likewise be suspended or terminated, as the case may be.

(4) Where the Scottish Ministers terminate an undertaking under paragraph (3), they may also prohibit the beneficiary 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.

(5) The powers conferred on the Scottish Ministers by paragraphs (1) to (4) shall be exercisable by a notice served on the beneficiary, and in paragraph (4) “specify” means specify in such notice.

(6) Before taking any step specified in paragraph (1), (2), (3) or (4) the Scottish Ministers shall—

- (a) give to the beneficiary a written explanation of the reasons for the step proposed to be taken;
- (b) afford the beneficiary the opportunity of making written representations within such time as the Scottish Ministers consider reasonable; and
- (c) consider any such representations.

Recovery of interest

21.—(1) Where the Scottish Ministers exercise the power conferred by regulation 20(1)(b), they may also recover on demand interest on the sum to be recovered, at a rate of interest one percentage point above LIBOR calculated on a daily basis from the date on which the Scottish Ministers notify the beneficiary that they seek recovery until the date of recovery.

(2) In any proceedings for recovery under these Regulations, a certificate issued by the Scottish Ministers stating the LIBOR, the amount of interest recoverable and the period for which such interest is calculated shall, unless the contrary is shown, be conclusive of those matters.

Sums payable to the Scottish Ministers to be recoverable as a debt

22. Where an amount falls to be paid to the Scottish Ministers by virtue of (or by virtue of an action taken under) these Regulations or the Commission Regulation, such amount shall be recoverable as a debt.

Offences and penalties

23.—(1) If any person, for the purposes of obtaining for that person or any other person any financial assistance under these Regulations knowingly or recklessly makes a statement which is false or misleading in a material particular, that person shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(2) If any person intentionally obstructs an authorised person (or a person accompanying an authorised person and acting under that authorised person’s instructions), in the exercise of the powers under regulation 17, that person shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(3) Where an offence under this regulation is committed by a body corporate or a partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of that body corporate, or any person who was purporting to act in such a capacity (or in the case of a partnership, a partner or a person who was purporting to act as such), that person as well as the body corporate or the partnership, as the case may be, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(4) Where the affairs of a body corporate are managed by its members, paragraph (3) applies to acts and defaults of a member in connection with the management functions of the members as if the member were a director of the body corporate.

Status: Point in time view as at 01/05/2004.

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Notices

24. Section 123 (provisions relating to the service of documents) of the Environment Act 1995^{M20} shall apply to the service of a notice under regulations 20 and 21 as it applies to service of documents under that Act.

Marginal Citations

M20 1995 c. 25.

Right of appeal

25.—(1) Where the Scottish Ministers withhold or recover any payment under regulation 20, the beneficiary may seek a review of the decision by the Scottish Ministers.

(2) The review referred to in paragraph (1) must be applied for in accordance with the provisions of the Agricultural Subsidies (Appeals) (Scotland) Regulations 2000^{M21}.

(3) The Agricultural Subsidies (Appeals) (Scotland) Regulations 2000 shall be amended by inserting after paragraph (n) of regulation 4 (decisions amendable to review and appeal)—

“(o) a decision by the Scottish Ministers to withhold any grant due or recover any grant paid or require payment of a sum imposed by way of penalty under the Organic Aid (Scotland) Regulations 2004, in terms of regulation 20 of those Regulations.”.

Marginal Citations

M21 S.S.I. 2000/347 as amended by S.S.I. 2001/50, 226 and 300, 2002/139 and 228 and 2003/129 and 302.

Amendment to the 1994 Regulations

26. After regulation 8(2) (restrictions on acceptance of applications) of the 1994 Regulations there is inserted—

“(3) No application shall be accepted after 1 May 2004.”.

St Andrew’s House, Edinburgh

ALLAN WILSON
Authorised to sign by the Scottish Ministers

SCHEDULE 1

Regulations 2(1), 7(a) and 11(1)(c)(iii)

CAPITAL ACTIVITIES

<i>Column 1</i> <i>Activity</i>	<i>Column 2</i> <i>Requirements</i>
<p>1. Erection of—</p> <p>(a) A stock fence;</p> <p>(b) Gate and posts;</p> <p>(c) A single stile; or</p> <p>(d) A double stile.</p>	<p>(i) The construction and all materials must conform to the appropriate British Standards;</p> <p>(ii) Except as otherwise provided, fence posts must be placed at intervals of no more than 3.5 metres or 12 metres where high tensile wire and droppers are used;</p> <p>(iii) Except as otherwise provided, a fence must have a minimum of 6 line wires or 2 line wires and woven wire netting; and</p> <p>(iv) Where fences are erected to enhance hedgerows they must be sited at least 1 metre from the centre line of the hedge.</p>
<p>2. Conversion of a stock fence to a deer fence.</p>	<p>The conversion of an existing stock fence to a deer fence must have new strainers erected and full length stobs driven in every 12 metres and droppers on the top of the fence every 2 metres as well as the existing stobs.</p>
<p>3. Erection of a scare or temporary fence or rabbit proof netting.</p>	<p>(i) A scare fence must consist of a minimum of 2 line wires with posts at intervals of not more than 6 metres;</p> <p>(ii) Rabbit proofing shall be carried out with galvanised wire netting. The netting must not be less than 1.05 metres wide British Standards designation 18 and have a mesh no larger than 31 millimetres. The top edge of the netting must not be less than 0.9 metres above ground level;</p> <p>(iii) The netting shall be fastened to the fencing and the bottom edge of the netting must be buried in the ground to a suitable depth or turned outward and anchored; and</p> <p>(iv) All gates in rabbit proofed fences must also be rabbit proofed.</p>
<p>4. Erection of a deer fence marked to reduce bird collision.</p>	<p>(i) Deer fences must not be less than 1.8 metres high and have a minimum of 3 line wires and woven netting with stobs at no more than 3.5 metre intervals and 12 metre intervals with droppers every 2 metres for high tensile wire; and</p> <p>(ii) In areas where black grouse and capercaillie occur, to make the fence more</p>

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visible and thus reduce the number of collisions, deer fences must use either–

- (aa) A double strip of orange barrier netting, each strip being approximately 45 centimetres in width. Both strips must be secured with pig rings/wire twists at intervals of circa. 30 centimetres on the upper and lower edges. The top of the upper strip should reach the top strand of the fence. The top of the lower strip must reach the middle strand of the fence; or
- (bb) Another fence marking design approved in writing by the Scottish Ministers for this purpose.

- 5. Erection of a post and rail fence as a tree guard or water gate. A post and rail fence erected as a tree guard or a water gate must have posts no more than 3 metres apart and 4 rails (70 millimetres x 20 millimetres).
 - 6. Building or restoration of traditional drystone or flagstone dykes or walls. Drystone or flagstone dykes or walls must be rebuilt with material traditional to the locality and to a standard normally found there.
 - 7. Installation of self supporting guard for hedge plants. Self supporting guards must be securely fixed to protect newly planted material from damage by rodents and grazing animals.
 - 8. Installation of a water trough. The trough must be permanently mounted on a durable base and a stopcock must be provided to control the water supply.
 - 9. Planting, replanting, coppicing or laying of a hedge.
 - (i) Where new hedging or gapping up of existing hedges is undertaken, plants must be established in a double row with a minimum of 6 plants per metre;
 - (ii) A single species must not account for more than 75% of the plants established; and
 - (iii) Species selected for the replanting or gapping up must already be present within the existing hedge.
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SCHEDULE 2

Regulation 2(1)

DEFINITION OF REGULATION 2092/91

“Regulation 2092/91” means Council Regulation (EEC) No. 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs^{M22} as amended by—

<i>Community Instrument</i>	<i>Reference</i>
Commission Regulation (EEC) No. 1535/92	O.J. No. L 162, 16.6.92, p.15
Commission Regulation (EEC) No. 2083/92	O.J. No. L 208, 24.7.92, p.15
Commission Regulation (EEC) No. 207/93	O.J. No. L 25, 2.2.93, p.5
Commission Regulation (EEC) No. 2608/93	O.J. No. L 239, 24.9.93, p.10
Act of Accession of Austria, Sweden and Finland M23	O.J. No. C 241, 29.8.94, p.21
Commission Regulation (EC) No. 468/94	O.J. No. L 59, 3.3.94, p.1
Council Regulation (EC) No. 1468/94	O.J. No. L 159, 28.6.94, p.11
Commission Regulation (EC) No. 2381/94	O.J. No. L 255, 1.10.94, p.84
Commission Regulation (EC) No. 1201/95	O.J. No. L 119, 30.5.95, p.9
Commission Regulation (EC) No. 1202/95	O.J. No. L 119, 30.5.95, p.11
Council Regulation (EC) No. 1935/95	O.J. No. L 186, 5.8.95, p.1
Commission Regulation (EC) No. 418/96	O.J. No. L 59, 8.3.96, p.10
Commission Regulation (EC) No. 1488/97	O.J. No. L 202, 30.7.97, p.12
Commission Regulation (EC) No. 1900/98	O.J. No. L 247, 5.9.98, p.6
Commission Regulation (EC) No. 330/1999	O.J. No. L 40, 13.2.99, p.23
Council Regulation (EC) No. 1804/1999	O.J. No. L 222, 24.8.99, p.1
Commission Regulation (EC) No. 331/2000	O.J. No. L 48, 19.2.00, p.1
Commission Regulation (EC) No. 1073/2000	O.J. No. L 119, 20.5.00, p.27
Commission Regulation (EC) No. 1437/2000	O.J. No. L 161, 1.7.00, p.62
Commission Regulation (EC) No. 2020/2000	O.J. No. L 241, 26.9.00, p.39
Commission Regulation (EC) No. 436/2001	O.J. No. L 63, 3.3.01, p.16
Commission Regulation (EC) No. 2491/2001	O.J. No. L 337, 20.12.01, p.9
Commission Regulation (EC) No. 473/2002	O.J. No. L 75, 16.3.02, p.21
Commission Regulation (EC) No. 1452/2003	O.J. No. L 206, 15.8.03, p.17
Commission Regulation (EC) No. 223/2003	O.J. No. L 31, 6.2.03, p.3
Commission Regulation (EC) No. 599/2003	O.J. No. L 85, 2.4.03, p.15
Council Regulation (EC) No. 806/2003	O.J. No. L 122, 16.5.03, p.1

Status: Point in time view as at 01/05/2004.

Changes to legislation: There are currently no known outstanding effects for the The Organic Aid (Scotland) Regulations 2004. (See end of Document for details)

Commission Regulation (EC) No. 2277/2003 O.J. No. L 336, 23.12.03, p.68
 Council Regulation (EC) No. 392/2004 O.J. No. L 65, 13.3.04, p.1

Marginal Citations

M22 O.J. No. L 198, 22.7.91, p.1.

M23 Adapted by Council Decision 95/1/EC, Euratom, ESCS, O.J. No. L 1, 1.1.95, p.1.

Marginal Citations

M22 O.J. No. L 198, 22.7.91, p.1.

M23 Adapted by Council Decision 95/1/EC, Euratom, ESCS, O.J. No. L 1, 1.1.95, p.1.

SCHEDULE 3

Regulations 3(2) and 14(2)(a)

PAYMENTS OF CONVERSION GRANT

1. Subject to paragraph 5, where the production unit or common grazing in respect of which conversion grant is to be granted is eligible arable land the amount payable in relation to such land shall be calculated as follows:—

(a)	(a) First year	£220 per hectare of eligible arable land
(b)	(b) Second year	£220 per hectare of eligible arable land
(c)	(c) Third year	£55 per hectare of eligible arable land
(d)	(d) Fourth year	£55 per hectare of eligible arable land
(e)	(e) Fifth year	£45 per hectare of eligible arable land.

2. Subject to paragraph 5, where the production unit or common grazing in respect of which conversion grant is to be granted is improved grassland the amount payable in relation to such land shall be calculated as follows:—

(a)	(a) First year	£120 per hectare of improved grassland
(b)	(b) Second year	£120 per hectare of improved grassland
(c)	(c) Third year	£50 per hectare of improved grassland
(d)	(d) Fourth year	£50 per hectare of improved grassland
(e)	(e) Fifth year	£30 per hectare of improved grassland.

3. Subject to paragraph 5, where the production unit or common grazing in respect of which conversion grant is to be granted is rough grazing or unimproved grassland, the amount payable in relation to such land shall be calculated as follows:—

(a)	(a) First year	£5 per hectare of rough grazing or unimproved grassland
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Status: Point in time view as at 01/05/2004.

Changes to legislation: There are currently no known outstanding effects for the The Organic Aid (Scotland) Regulations 2004. (See end of Document for details)

(b)	(b) Second year	£5 per hectare of rough grazing or unimproved grassland
(c)	(c) Third year	£5 per hectare of rough grazing or unimproved grassland
(d)	(d) Fourth year	£5 per hectare of rough grazing or unimproved grassland
(e)	(e) Fifth year	£5 per hectare of rough grazing or unimproved grassland.

4. Subject to paragraph 5, where the production unit or common grazing in respect of which conversion grant is to be granted is vegetable and fruit land, the amount payable in relation to such land shall be calculated as follows:–

(a)	(a) First year	£300 per hectare of vegetable and fruit land
(b)	(b) Second year	£300 per hectare of vegetable and fruit land
(c)	(c) Third year	£40 per hectare of vegetable and fruit land
(d)	(d) Fourth year	£40 per hectare of vegetable and fruit land
(e)	(e) Fifth year	£40 per hectare of vegetable and fruit land.

5. Where the production unit or common grazing in respect of which conversion grant is to be granted comprises land which falls within more than one of paragraphs 1 to 4, each of the applicable paragraphs shall apply to the relevant part of the production unit or common grazing and the amount payable in relation to such production unit or common grazing shall be the total of the sums payable under each of the relevant paragraphs.

SCHEDULE 4

Regulations 6(f) and 9(f)

THE STANDARD OF GOOD FARMING PRACTICE

1. On rough grazings, unimproved grassland, reverted improved grassland, machair and dune grassland, wetlands and native, amenity or semi-natural woodlands, livestock must be managed to avoid either overgrazing or undergrazing.

2. The removal or clearance of drystone or flagstone dykes or walls, hedges and hedgerow trees will not be permitted except with the prior written agreement of the Scottish Ministers.

3. No hedge trimming may be carried out in the period 1st March to 31st July.

4. Scottish Natural Heritage must be notified of any intended operations that are likely to damage any site of special scientific interest on the land.

5. If a new silage or slurry storage facility is constructed on the land, the Scottish Environmental Protection Agency must be notified in writing before it is used.

6. Prior written authorisation must be obtained from the Scottish Environment Protection Agency before any sheep dip is disposed of on the land.

7. Records of any agreement notification or authorisation under paragraphs 2, 5 and 6 shall be kept until the fifth anniversary of the date of entry into the conversion part of the scheme or the fifth anniversary of the date of entry into the maintenance part of the scheme as the case may be.

Status: Point in time view as at 01/05/2004.

Changes to legislation: There are currently no known outstanding effects for the The Organic Aid (Scotland) Regulations 2004. (See end of Document for details)

SCHEDULE 5

Regulation 9(e)

MAINTENANCE OBLIGATIONS

1. No field operations, such as harrowing and rolling, on species rich grassland or rough grazings may be carried out during the nesting season.

2. No cultivation may be carried out within one metre of any boundary feature, such as fences, hedges and walls.

3. To avoid damaging the conservation interest of rough grazings, unimproved grassland, reverted improved grassland, machair and dune grassland, wetland, water margins, and native amenity or semi-natural woodlands, no new drainage works, ploughing, clearing, levelling, reseeding or cultivating may be undertaken and livestock must be managed in such a way as to avoid poaching.

4. Injurious weeds to which the Weeds Act 1959 ^{M24} applies must be controlled to prevent their spread and to avoid the risk of damage to the conservation interest of any habitat or feature on the farm or part of a farm in relation to which the maintenance grant is payable.

Marginal Citations

M24 1959 c. 54.

5. Muirburn may only be carried out in accordance with guidance approved by Scottish Ministers.

6. The damage or destruction of any historic or archaeological features or areas must be avoided and guidance approved by the Scottish Ministers must be followed for the protection of such features or areas.

SCHEDULE 6

Regulation 14(2)(b)

PAYMENTS OF CAPITAL GRANT

<i>Column 1</i> <i>Activity</i>	<i>Column 2</i> <i>Number of payment</i>	<i>Column 2</i> <i>Rate of Payment</i>
1. Erection of—		
(a) (a) A stock fence—	First payment	£0.75 per metre
	Second payment	£0.79 per metre
	Third payment	£0.68 per metre
	Fourth payment	£0.36 per metre
	Fifth payment	£0.38 per metre
	Sixth payment	£0.40 per metre;
(b) (b) Gate and posts—	First payment	£6.25 per metre
	Second payment	£6.58 per metre
	Third payment	£5.63 per metre

Status: Point in time view as at 01/05/2004.

Changes to legislation: There are currently no known outstanding effects for the The Organic Aid (Scotland) Regulations 2004. (See end of Document for details)

	Fourth payment	£2.98 per metre
	Fifth payment	£3.15 per metre
	Sixth payment	£3.35 per metre;
(c)	(c) A single stile–	
	First payment	£6.25 each
	Second payment	£6.58 each
	Third payment	£5.63 each
	Fourth payment	£2.98 each
	Fifth payment	£3.15 each
	Sixth payment	£3.35 each;
(d)	(d) A double stile–	
	First payment	£11.25 each
	Second payment	£11.84 each
	Third payment	£10.13 each
	Fourth payment	£5.36 each
	Fifth payment	£5.67 each
	Sixth payment	£6.03 each.
2.	Conversion of a stock fence to a deer fence–	
	First payment	£0.63 per metre
	Second payment	£0.66 per metre
	Third payment	£0.56 per metre
	Fourth payment	£0.30 per metre
	Fifth payment	£0.32 per metre
	Sixth payment	£0.34 per metre.
3.	Erection of a scare or temporary fence or rabbit proof netting–	
	First payment	£0.38 per metre
	Second payment	£0.39 per metre
	Third payment	£0.34 per metre
	Fourth payment	£0.18 per metre
	Fifth payment	£0.19 per metre
	Sixth payment	£0.20 per metre.
4.	Erection of a deer fence marked to reduce bird collision–	
	First payment	£1.63 per metre
	Second payment	£1.71 per metre
	Third payment	£1.46 per metre
	Fourth payment	£0.77 per metre
	Fifth payment	£0.82 per metre

Status: Point in time view as at 01/05/2004.

Changes to legislation: There are currently no known outstanding effects for the The Organic Aid (Scotland) Regulations 2004. (See end of Document for details)

	Sixth payment	£0.87 per metre.
5. Erection of a post and rail fence as a tree guard or water gate–	First payment	£4.00 per metre
	Second payment	£4.21 per metre
	Third payment	£3.60 per metre
	Fourth payment	£1.90 per metre
	Fifth payment	£2.02 per metre
	Sixth payment	£2.14 per metre.
6. Building or restoration of traditional drystone or flagstone dykes or walls–	First payment	£4.00 per square metre
	Second payment	£4.21 per square metre
	Third payment	£3.60 per square metre
	Fourth payment	£1.90 per square metre
	Fifth payment	£2.02 per square metre
	Sixth payment	£2.14 per square metre.
7. Installation of self supporting guard for hedge plants–	First payment	£0.13 each
	Second payment	£0.13 each
	Third payment	£0.11 each
	Fourth payment	£0.06 each
	Fifth payment	£0.06 each
	Sixth payment	£0.07 each.
8. Installation of a water trough–	First payment	£50.00 each
	Second payment	£52.60 each
	Third payment	£45.00 each
	Fourth payment	£23.80 each
	Fifth payment	£25.20 each
	Sixth payment	£26.80 each.
9. Planting, replanting, coppicing or laying of a hedge–	First payment	£1.00 per metre
	Second payment	£1.05 per metre
	Third payment	£0.90 per metre
	Fourth payment	£0.48 per metre
	Fifth payment	£0.50 per metre

Status: Point in time view as at 01/05/2004.**Changes to legislation:** There are currently no known outstanding effects for the The Organic Aid (Scotland) Regulations 2004. (See end of Document for details)

Sixth payment

£0.536 per metre.

SCHEDULE 7

Regulation 14(2)(c)

PAYMENTS OF MAINTENANCE GRANT

1. Subject to paragraph 5, where the organic production unit or common grazing in respect of which maintenance grant is to be granted is eligible arable land, the amount payable in relation to such land shall be calculated as follows:-

(a)	(a) First year	£30 per hectare of eligible arable land
(b)	(b) Second year	£30 per hectare of eligible arable land
(c)	(c) Third year	£30 per hectare of eligible arable land
(d)	(d) Fourth year	£30 per hectare of eligible arable land
(e)	(e) Fifth year	£30 per hectare of eligible arable land.

2. Subject to paragraph 5, where the organic production unit or common grazing in respect of which maintenance grant is to be granted is improved grassland, the amount payable in relation to such land shall be calculated as follows:-

(a)	(a) First year	£14 per hectare of improved grassland
(b)	(b) Second year	£14 per hectare of improved grassland
(c)	(c) Third year	£14 per hectare of improved grassland
(d)	(d) Fourth year	£14 per hectare of improved grassland
(e)	(e) Fifth year	£14 per hectare of improved grassland.

3. Subject to paragraph 5, where the organic production unit or common grazing in respect of which maintenance grant is to be granted is rough grazing or unimproved grassland, the amount payable in relation to such land shall be calculated as follows :-

(a)	(a) First year	£500 in respect of all rough grazing or unimproved grassland in the beneficiary's holding or common grazing
(b)	(b) Second year	£500 in respect of all rough grazing or unimproved grassland in the beneficiary's holding or common grazing
(c)	(c) Third year	£500 in respect of all rough grazing or unimproved grassland in the beneficiary's holding or common grazing
(d)	(d) Fourth year	£500 in respect of all rough grazing or unimproved grassland in the beneficiary's holding or common grazing

Status: Point in time view as at 01/05/2004.
Changes to legislation: There are currently no known outstanding effects for the
 The Organic Aid (Scotland) Regulations 2004. (See end of Document for details)

(e)	(e) Fifth year	£500 in respect of all rough grazing or unimproved grassland in the beneficiary's holding or common grazing.
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4. Subject to paragraph 5, where the organic production unit or common grazing in respect of which maintenance grant is to be granted is vegetable and fruit land, the amount payable in relation to such land shall be calculated as follows:—

(a)	(a) First year	£14 per hectare of vegetable and fruit land
(b)	(b) Second year	£14 per hectare of vegetable and fruit land
(c)	(c) Third year	£14 per hectare of vegetable and fruit land
(d)	(d) Fourth year	£14 per hectare of vegetable and fruit land
(e)	(e) Fifth year	£14 per hectare of vegetable and fruit land.

5.—(1) Where the organic production unit or common grazing in respect of which maintenance grant is to be granted comprises land which falls within more than one of paragraphs 1, 2 and 4 but not paragraph 3, each of the applicable paragraphs shall apply to the relevant part of the organic production unit or common grazing and the amount payable in relation to such organic production unit or common grazing shall be the total of the sums payable under each of the relevant paragraphs.

(2) Subject to sub-paragraph (3), where the organic production unit or common grazing in respect of which maintenance grant is to be granted comprises rough grazing or unimproved grassland as well as eligible arable land, unimproved grassland or vegetable and fruit land, the maintenance grant payable shall be the greater of—

- (a) the amount calculated in accordance with paragraph 3; and
- (b) the total amount calculated in accordance with sub-paragraph (1).

(3) Where the beneficiary is claiming maintenance grant for more than one organic production unit or common grazing, the beneficiary may elect to be paid the lower of the two sums specified in paragraph (2) instead of the greater in relation to any or all of the relevant organic production units or common grazings.

SCHEDULE 8

Regulation 15

PHASING DATES AND PERIODS

<i>Column 1</i> <i>Area of land</i>	<i>Column 2</i> <i>Period to replace the specified conversion period</i>	<i>Column 3</i> <i>Date to replace the date of entry into the conversion part of the scheme</i>	<i>Column 4</i> <i>Period to replace the specified maintenance period</i>	<i>Column 5</i> <i>Date to replace the date of entry into the maintenance part of the scheme</i>
First area.	The period of 5 years commencing on the date of registration of the	1st September following the applicant's making of the	The period of 5 years commencing on the date the applicant for	(a) Where the applicant applies for the

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Changes to legislation: There are currently no known outstanding effects for the The Organic Aid (Scotland) Regulations 2004. (See end of Document for details)

whole production unit or common grazing.

application for the conversion grant.

a maintenance grant proposes in terms of regulation 11(1)(d)(ii) to assume the obligations for the first area under the undertaking to be given under regulation 9.

maintenance grant during the specified period of an undertaking given under the 1994 Regulations, the later of—

(i) 1st September following the applicant's making of the application for the maintenance grant; and

(ii) the earlier of—

(aa) the day after the end of the specified period of the undertaking for the first area; and

(bb) 1st November

Status: Point in time view as at 01/05/2004.

Changes to legislation: There are currently no known outstanding effects for the The Organic Aid (Scotland) Regulations 2004. (See end of Document for details)

following the applicant's making of the application for the maintenance grant; and

(b) In all other cases on 1st September following the applicant's making of the application for the maintenance grant;

which date is referred to in this Schedule as the "date of commencement of phasing of entry into the maintenance part of the scheme".

Second area.	The period of 5 years commencing on the first anniversary of the date of registration of the whole production unit or common grazing.	The first anniversary of 1st September following the applicant's making of the application for the conversion grant.	The period of 5 years commencing on the first anniversary of the date the applicant for a maintenance grant proposes in terms of regulation 11(1) (d)(ii) to assume the obligations for the first area under the undertaking to	The first anniversary of the date of commencement of phasing of entry into the maintenance part of the scheme ^{M25} .
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Status: Point in time view as at 01/05/2004.

Changes to legislation: There are currently no known outstanding effects for the The Organic Aid (Scotland) Regulations 2004. (See end of Document for details)

			be given under regulation 9.	
Third area.	The period of 5 years commencing on the second anniversary of the date of registration of the whole production unit or common grazing.	The second anniversary of 1st September following the applicant's making of the application for the conversion grant.	The period of 5 years commencing on the second anniversary of the date the applicant for a maintenance grant proposes in terms of regulation 11(1) (d)(ii) to assume the obligations for the first area under the undertaking to be given under regulation 9.	The second anniversary of the date of commencement of phasing of entry into the maintenance part of the scheme M26 .
Fourth area.	The period of 5 years commencing on the third anniversary of the date of registration of the whole production unit or common grazing.	The third anniversary of 1st September following the applicant's making of the application for the conversion grant.	The period of 5 years commencing on the third anniversary of the date the applicant for a maintenance grant proposes in terms of regulation 11(1) (d)(ii) to assume the obligations for the first area under the undertaking to be given under regulation 9.	The third anniversary of the date of commencement of phasing of entry into the maintenance part of the scheme(a).
Fifth area.	The period of 5 years commencing on the fourth anniversary of the date of registration of the whole production unit or common grazing.	The fourth anniversary of 1st September following the applicant's making of the application for the conversion grant.	The period of 5 years commencing on the fourth anniversary of the date the applicant for a maintenance grant proposes in terms of regulation 11(1) (d)(ii) to assume the obligations for the first area under the undertaking to	The fourth anniversary of the date of commencement of phasing of entry into the maintenance part of the scheme(a).

Status: Point in time view as at 01/05/2004.

Changes to legislation: There are currently no known outstanding effects for the Organic Aid (Scotland) Regulations 2004. (See end of Document for details)

be given under
regulation 9.

Marginal Citations

- M25** The date of commencement of phasing of entry into the maintenance part of the scheme is defined in column 5 of this Schedule in relation to the first area.
- M26** The date of commencement of phasing of entry into the maintenance part of the scheme is defined in column 5 of this Schedule in relation to the first area.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to Scotland. They introduce a new organic aid scheme for Scotland approved by Commission Decision C (2004) 153 of 21 January 2004 (unpublished) and close the present organic aid scheme provided by the Organic Aid (Scotland) Regulations 1994 (S.I. 1994/1701 as amended by S.I. 1996/3083 and 1999/107) (“the 1994 Regulations”). The Regulations continue to make provision for the payment of aid to farmers who undertake to introduce organic farming methods (“conversion grant”) and introduce new payments of aid to farmers—

- (a) for capital items required to introduce organic farming methods (“capital grant”);
- (b) to use organic farming methods once aid for introducing such methods ceases (“maintenance grant”); and
- (c) to contribute to the cost of producing a conversion plan to apply for a conversion grant pursuant to Articles 22 to 24 of Council Regulation (EC) No. 1257/99 (O.J. No. L 160, 26.6.99, p.80 as amended by Council Regulation (EC) No. 1783/2003 O.J. No. L 270, 21.10.03, p.70) (“the Council Regulation”).

The Regulations conform to the Commission Regulation (EC) No. 445/2002 (O.J. No. L 74, 15.3.02, p.1 as amended by Commission Regulation (EC) No. 567/2003 O.J. No. L 138, 5.6.03, p.32 and Commission Regulation (EC) No. 963/2003, O.J. No. L 82, 29.3.03, p.11) (“the Commission Regulation”) laying down detailed rules for the application of the Council Regulation and in particular Article 30 (transfer of holding), Article 33 (force majeure) Articles 35 and 36 (combination of aids) and Articles 62a, 63 and 64 (reimbursement of aid and penalties) of the Commission Regulation.

The Regulations—

- (a) amend the payment rates for undertakings given under the 1994 Regulations (regulation 3);
- (b) enable the Scottish Ministers to make payments of conversion grants, capital grants and maintenance grants as well as a contribution towards the cost of creating a plan to introduce organic farming methods on the relevant land to those satisfying the conditions of the Regulations (regulation 4);
- (c) specify the conditions of eligibility to be satisfied by applicants for conversion grant (regulation 5);

- (d) set out the undertakings to be given by applicants for conversion grants (regulation 6 and Schedule 4);
- (e) set out the undertakings to be given by applicants for capital grant (regulation 7 and Schedule 1);
- (f) specify the conditions of eligibility to be satisfied by applicants for maintenance grant (regulation 8);
- (g) set out the undertakings to be given by applicants for maintenance grant (regulation 9 and Schedules 4 and 5);
- (h) specify the conditions for the participation of common grazings committees (regulation 10);
- (i) specify the requirements in relation to applications for aid and the documents to accompany such applications (regulation 11);
- (j) specify restrictions on the acceptance of applications by the Scottish Ministers (regulation 12);
- (k) set out how the Scottish Ministers will determine applications (regulation 13);
- (l) specify the period, method of payment of aid and rates (regulation 14 and Schedules 3, 6 and 7);
- (m) make provisions for phased conversions and phased entry into the maintenance part of the scheme (regulation 15 and Schedule 8);
- (n) make provision for payment of aid to a new occupant where there has been a change in the occupation of a farm or part due to the death of the previous occupier or otherwise (regulation 16);
- (o) confer on authorised persons powers of entry for the purposes of the Regulations and require that reasonable assistance be given to them for the exercise of these powers (regulation 17)
- (p) specify circumstances when the Scottish Ministers may withhold aid or recover payments already made (regulations 18 to 20) and interest (regulation 21) and how the Scottish Ministers may do so (regulation 22);
- (q) create offences and prescribe penalties (regulation 23);
- (r) set out how notices shall be served (regulation 24);
- (s) provide a right of appeal against withholding or recovery of aid (regulation 25); and
- (t) close the 1994 Regulations to new applications (regulation 26).

Copies of the guidance from the Scottish Ministers—

- (a) for these Regulations;
- (b) on muirburn; and
- (c) on avoiding damage to or destruction of historic or archaeological features or areas may be obtained from local SEERAD offices.

No Regulatory Impact Assessment has been completed for this instrument.

Status:

Point in time view as at 01/05/2004.

Changes to legislation:

There are currently no known outstanding effects for the The Organic Aid (Scotland) Regulations 2004.