

**2005 No. 619**

**AGRICULTURE**

**The Organic Aid (Scotland) Amendment Regulations 2005**

*Made* - - - - *1st December 2005*

*Laid before the Scottish Parliament* *1st December 2005*

*Coming into force* - - *23rd December 2005*

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

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Organic Aid (Scotland) Amendment Regulations 2005 and shall come into force on 23rd December 2005.

(2) In these Regulations, “the principal Regulations” means the Organic Aid (Scotland) Regulations 2004(b).

**Amendment of the Organic Aid (Scotland) Regulations 2004**

2. The principal Regulations are amended in accordance with regulations 3 to 13.

**Amendment of regulation 2 (interpretation)**

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

(a) after the definition of “application” insert–

““arable land” means–

(a) land which was in an arable crop in one or more years during the 5 years prior to 15th May 2003; and

(b) from 2006 and for subsequent years, land which was in an arable crop (or under set-aside or lying fallow as part of a normal crop rotation) in one or more years during the 5 years prior to 15th May in the year of application for aid under these Regulations;” and

omit the definition of “eligible arable land”;

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

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

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(a) 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, Schedule 8, paragraph 15.

(b) S.S.I. 2004/143; amended by S.S.I. 2004/174 and 381.

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

No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF);”;

- (c) after the definition of “first certificate of registration” insert–
    - ““formally in conversion” means that the necessary formal written consent has been obtained by the applicant from a private inspection body that the land is in conversion;”;
  - (d) in the definition of “improved grassland” after “either land” insert “in permanent pasture”;
  - (e) for the definition of “landlord” substitute–
    - ““landlord” means–
      - (a) in the case of an agricultural lease constituting a 1991 Act tenancy within the meaning of the 2003 Act, the landlord within the meaning of section 85 of the 1991 Act;
      - (b) in the case of a lease constituting a limited duration tenancy or short limited duration tenancy under the 2003 Act, the landlord within the meaning of section 93 of that Act;
      - (c) in the case of a croft within the meaning of the 1993 Act, the landlord within the meaning of section 61(1) of that Act;
      - (d) in the case of a holding within the meaning of the 1911 Act to which the 1991 Act does not apply, the same as it means in the 1911 Act,and, where appropriate, includes a head tenant;”;
  - (f) after the definition of “organic production unit” insert–
    - ““permanent pasture” means land used to grow grasses or other herbaceous forage naturally (self seeded) or through cultivation (sown) and that is not included in the crop rotation for 5 years or longer;”
  - (g) in the definition of “rough grazings” after “land” insert “in permanent pasture”;
  - (h) for the definition of “tenant” substitute–
    - ““tenant” means–
      - (a) in the case of an agricultural lease constituting a 1991 Act tenancy within the meaning of the 2003 Act, the tenant within the meaning of section 85 of the 1991 Act;
      - (b) in the case of a lease constituting a limited duration tenancy or short limited duration tenancy under the 2003 Act, the tenant within the meaning of section 93 of that Act;
      - (c) in the case of a croft within the meaning of the 1993 Act, the crofter within the meaning of section 3(3) of that Act;
      - (d) in the case of a holding within the meaning of the 1911 Act to which the 1991 Act does not apply, the landholder within the meaning of section 2(2) of the 1911 Act,and, where appropriate, includes a sub-tenant;” and
    - (i) in the definition of “the Organic Standards Compendium” for “December 2003” substitute “April 2005” and for “of” where it occurs the second time substitute “for”.
- (2) In regulation 2 after paragraph (2) insert–
  - “(3) A reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in section 15 of the Electronic Communications Act 2000(a) which has been recorded and is consequently capable of being reproduced.”.

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(a) 2000 c.7.

#### **Amendment of regulation 3 (application)**

4.—(1) In regulation 3 (application) for paragraph (2) substitute—

“Subject to paragraph (3), aid payable in respect of any undertaking given under the 1994 Regulations, except for any such undertaking given after 31st December 2002, shall be calculated in accordance with Schedule 3.”.

(2) In regulation 3 after paragraph (2) insert—

“(2A) Subject to paragraph (3), aid payable, in relation to payments of conversion grant, in respect of—

- (a) any undertaking given under these Regulations; or
- (b) any undertaking given under the 1994 Regulations and which was given after 31st December 2002;

shall be calculated in accordance with Schedule 3A.”.

(3) In regulation 3 in paragraph (3) for “(1)(a) and (2)” substitute “(1)(a), (2) and (2A).”.

#### **Amendment of regulation 5 (conditions of eligibility for conversion grant)**

5.—(1) In regulation 5 (conditions of eligibility for conversion grant) for paragraph (1)(a) substitute—

“(a) is either—

- (i) the owner or tenant of a production unit to which such an application relates and is in lawful actual occupation of that production unit or, in the case of an owner, has undertaken, jointly with the tenant, to assume the obligations under any undertaking that may be given under these Regulations; or
- (ii) subject to regulation 10, a grazings committee;”.

(2) In regulation 5—

- (a) in paragraph (2)(c) after “part of a farm” insert “to which the application relates”;
- (b) in paragraph (2)(e) after “part of a farm” insert “to which the application relates”; and
- (c) for paragraph (2)(f) substitute—

“(f) the farm or part of a farm to which the application relates has not been formally in conversion, or certified fully organic, at any time during the period beginning on 10th August 1993 and ending with the date of the application.”.

#### **Amendment of regulation 6 (undertakings by applicants for conversion grants)**

6. In regulation 6 (undertakings by applicants for conversion grants) at the end of regulation 6(f) omit “and” and after regulation 6(g) insert—

“and

- (h) where land is declared as vegetable and fruit land in the application form, to produce fruit or vegetables for a minimum of one year in any of years 3 to 5 of the specified conversion period.”.

#### **Amendment of regulation 8 (conditions of eligibility for maintenance grant)**

7. In regulation 8 (conditions of eligibility for maintenance grant) for paragraph (1)(a) substitute—

“(a) is either—

- (i) the owner or tenant of an organic production unit to which such an application relates and is in lawful actual occupation of that organic production unit or, in the case of an owner, has undertaken, jointly with the tenant, to assume the obligations under any undertaking that may be given under these Regulations; or

- (ii) subject to regulation 10, a grazings committee;”.

**Amendment of regulation 9 (undertakings by applicants for maintenance grants)**

8. In regulation 9 (undertakings by applicants for maintenance grants) at the end of regulation 9(f) omit “and” and after regulation 9(g) insert–

“; and

- (h) where land is declared as vegetable and fruit land in the application form, to produce fruit or vegetables for a minimum of 2 years in the specified maintenance period.”.

**Amendment of regulation 14 (amounts of payments and claims)**

9.—(1) In regulation 14 (amounts of payments and claims) at the end of paragraph (2)(a) insert “or 3A as provided for by regulation 3”.

(2) In regulation 14(3) and (4) omit “eligible”.

**Amendment of Schedule 3 (payments of conversion grant)**

10. In Schedule 3 in paragraph 1 omit “eligible” wherever it occurs.

**Insertion of Schedule 3A (payments of conversion grant for any undertaking given under (i) these Regulations or (ii) the 1994 Regulations and given after 31st December 2002)**

11. After Schedule 3 insert–

**“SCHEDULE 3A Regulations 3(2A) and 14(2)(a)**

**PAYMENTS OF CONVERSION GRANT FOR ANY UNDERTAKING GIVEN UNDER (I) THESE REGULATIONS OR (II) THE 1994 REGULATIONS AND GIVEN AFTER 31st DECEMBER 2002**

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

- |                 |                                 |
|-----------------|---------------------------------|
| (a) First year  | £220 per hectare of arable land |
| (b) Second year | £220 per hectare of arable land |
| (c) Third year  | £60 per hectare of arable land  |
| (d) Fourth year | £60 per hectare of arable land  |
| (e) Fifth year  | £60 per hectare of 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) First year  | £120 per hectare of improved grassland |
| (b) Second year | £120 per hectare of improved grassland |
| (c) Third year  | £60 per hectare of improved grassland  |
| (d) Fourth year | £60 per hectare of improved grassland  |
| (e) Fifth year  | £60 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) First year £5 per hectare of rough grazing or unimproved grassland
- (b) Second year £5 per hectare of rough grazing or unimproved grassland
- (c) Third year £5 per hectare of rough grazing or unimproved grassland
- (d) Fourth year £5 per hectare of rough grazing or unimproved grassland
- (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) First year £300 per hectare of vegetable and fruit land
- (b) Second year £300 per hectare of vegetable and fruit land
- (c) Third year £60 per hectare of vegetable and fruit land
- (d) Fourth year £60 per hectare of vegetable and fruit land
- (e) Fifth year £60 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.”.

#### **Amendment of Schedule 6 (payments of capital grant)**

12.—(1) In Schedule 6 (payments of capital grant) in paragraph 1–

- (a) in sub-paragraph (a) for “£0.68” substitute “£0.67”;
- (b) in sub-paragraphs (b) and (c) for–
  - (i) “£6.58” substitute “£6.59”;
  - (ii) “£5.63” substitute “£5.62”; and
  - (iii) “£3.15” substitute “£3.16”; and
- (c) in sub-paragraph (d) for–
  - (i) “£11.84” substitute “£11.87”;
  - (ii) “£10.13” substitute “£10.11”;
  - (iii) “£5.67” substitute “£5.68”; and
  - (iv) “£6.03” substitute “£6.02”.

(2) In Schedule 6 in paragraph 2 for “£0.34” substitute “£0.33”.

(3) In Schedule 6 in paragraph 3 for “£0.39” substitute “£0.40”.

(4) In Schedule 6 in paragraph 5 for–

- (i) “£4.00” substitute “£1.75”;
- (ii) “£4.21” substitute “£1.85”;
- (iii) “£3.60” substitute “£1.57”;
- (iv) “£1.90” substitute “£0.83”;
- (v) “£2.02” substitute “£0.88”; and
- (vi) “£2.14” substitute “£0.94”.

- (5) In Schedule 6 in paragraph 6 for—
- (i) “£4.21” substitute “£4.22”; and
  - (ii) “£1.90” substitute “£1.91”.
- (6) In Schedule 6 in paragraph 8 for—
- (i) “£52.60” substitute “£52.75”;
  - (ii) “£45.00” substitute “£44.94”;
  - (iii) “£23.80” substitute “£23.82”;
  - (iv) “£25.20” substitute “£25.25; and
  - (v) “£26.80” substitute “£26.76”.
- (7) In Schedule 6 in paragraph 9 for “£0.536” substitute “£0.54”.

### **Amendment of Schedule 7 (payments of maintenance grant)**

- 13.**—(1) In Schedule 7 (payments of maintenance grant) in paragraph 1—
- (a) omit “eligible” wherever it occurs; and
  - (b) for “£30”, wherever it occurs, substitute “£60”.
- (2) In Schedule 7 in paragraph 2 for “£14”, wherever it occurs, substitute “£60”.
- (3) In Schedule 7 in paragraph 3 for sub-paragraphs (a), (b), (c), (d) and (e) substitute—
- |      |             |   |
|------|-------------|---|
| “(a) | First year  | £5 per hectare of rough grazing or unimproved grassland in the beneficiary’s holding or common grazing, or a minimum flat rate of £500, whichever is the greater    |
| (b)  | Second year | £5 per hectare of rough grazing or unimproved grassland in the beneficiary’s holding or common grazing, or a minimum flat rate of £500, whichever is the greater    |
| (c)  | Third year  | £5 per hectare of rough grazing or unimproved grassland in the beneficiary’s holding or common grazing, or a minimum flat rate of £500, whichever is the greater    |
| (d)  | Fourth year | £5 per hectare of rough grazing or unimproved grassland in the beneficiary’s holding or common grazing, or a minimum flat rate of £500, whichever is the greater    |
| (e)  | Fifth year  | £5 per hectare of rough grazing or unimproved grassland in the beneficiary’s holding or common grazing, or a minimum flat rate of £500, whichever is the greater.”. |
- (4) In Schedule 7 in paragraph 4 for “£14”, wherever it occurs, substitute “£60”.
- (5) In Schedule 7 in paragraph 5(2) omit “eligible”.

*RHONA BRANKIN*  
Authorised to sign by the Scottish Ministers

St Andrew’s House,  
Edinburgh  
1st December 2005

## EXPLANATORY NOTE

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

These Regulations amend the Organic Aid (Scotland) Regulations 2004 (“the principal Regulations”), and extend to Scotland only. The principal Regulations make provision for the payment of aid to farmers who undertake to introduce organic farming methods (“conversion grant”) and introduces new payments of aid to farmers: for capital items required to introduce organic farming methods (“capital grant”); to use organic farming methods once aid for introducing such methods ceases (“maintenance grant”); and to contribute to the cost of producing a conversion plan to apply for a conversion grant. This is pursuant to Articles 22 to 24 of Council Regulation (EC) No. 1257/1999 (O.J. No. L 160 26.6.1999 p.80) as amended.

These Regulations amend the principal Regulations as follows–

- (a) in regulation 2 (interpretation)–
  - (i) to insert definitions of land formally in conversion and permanent pasture and to update the reference to an EC Commission Regulation (regulation 3(1)(b), (c), and (f));
  - (ii) to amend the definitions of arable land, improved grassland, landlord, rough grazings, tenant and the Organic Standards Compendium (regulation 3(1)(a), (d), (e), (g), (h), and (i));
  - (iii) to insert an Electronic Communications Act 2000 provision enabling things done in writing in the principal Regulations to include a reference to an electronic communication (regulation 3(2));
- (b) in regulation 3 (application) to provide for two categories of undertaking under the principal Regulations, each of which has its own set of payment rates for conversion grants, under Schedule 3 and the new Schedule 3A (regulation 4);
- (c) in regulation 5 (conditions of eligibility for conversion grant) to amend these conditions to provide for the joint assumption of obligations by an owner and a tenant (regulation 5);
- (d) in regulation 6 (undertakings by applicants for conversion grants) to add another obligation to the conversion grant undertaking concerning land declared as vegetable and fruit land (regulation 6);
- (e) in regulation 8 (conditions of eligibility for maintenance grant) to amend these conditions to provide for the joint assumption of obligations by an owner and a tenant (regulation 7);
- (f) in regulation 9 (undertakings by applicants for maintenance grants) to add another obligation to the maintenance grant undertaking concerning land declared as fruit and vegetable (regulation 8);
- (g) in regulation 14 (amounts of payments and claims) to make amendments to provide for the two payment rates for conversion grants under Schedule 3 and the new Schedule 3A (regulation 9(1)) and to provide for the new definition of arable land (regulation 9(2));
- (h) in Schedule 3 (payments of conversion grants) to make amendments to provide for the new definition of arable land (regulation 10);
- (i) after Schedule 3 to insert a new Schedule 3A to specify payment rates for conversion grants for any undertakings given: under the principal Regulations; or under the 1994 Regulations and given after 31st December 2002 (regulation 11);
- (j) in Schedule 6 (payments of capital grant) to amend some of the payment rates for certain capital activities (regulation 12); and
- (k) in Schedule 7 (payments of maintenance grant) to amend some of the payment rates for certain maintenance activities (regulation 13).

No Regulatory Impact Assessment has been prepared in respect of these Regulations.

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