
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 100

AGRICULTURE

The Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008

<i>Made</i>	- - - -	<i>6th March 2008</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>7th March 2008</i>
<i>Coming into force</i>	- -	<i>29th March 2008</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 ^{M1} and all other powers enabling them to do so.

The Regulations make provision for a purpose mentioned in that section and it appears to the Scottish Ministers that it is expedient for the reference to Council Regulation (EEC) No. 2092/91^{M2} on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs and the reference to Article 4 and Annex III to Council Regulation (EC) No. 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers^{M3} to be construed as a reference to that first mentioned Regulation, and to said Article and Annex, as amended from time to time.

Marginal Citations

- M1** 1972 c. 68. Section 2(2) was amended by the [Scotland Act 1998 \(c. 46\)](#), [Schedule 8](#), paragraph 15(3) and the [Legislative and Regulatory Reform Act 2006 \(c. 51\)](#), [section 27\(1\)](#). The functions conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006.
- M2** O.J. No. L 198, 22.07.1991, p1. The last amending instrument at the making of these Regulations was Commission Regulation (EC) No. 123/2003, O.J. No. L 38, 13.02.2003, p.3. Recent amendments and a consolidated version are available online from the Department of Environment and Rural Affairs at www.defra.gov.uk/farm/organic/standards.
- M3** O.J. No. L 270, 21.10.2003, p.1 as last amended by Council Regulation (EC) No. 146/2008 (O.J. No. L 46, 21.02.2008, p.1).

Status: Point in time view as at 07/11/2009.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008 and come into force on 29th March 2008.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“1911 Act” means the Small Landholders (Scotland) Act 1911 ^{M4};

“1991 Act” means the Agricultural Holdings (Scotland) Act 1991 ^{M5};

“1993 Act” means the Crofters (Scotland) Act 1993 ^{M6};

“2003 Act” means the Agricultural Holdings (Scotland) Act 2003 ^{M7};

“activities” means the activities referred to in regulation 9(1) and columns 2 and 3 of Schedule 2, and “activity” is construed accordingly;

“applicant” means a person who has submitted an application for aid pursuant to regulation 3, the result of which is still pending;

“application for aid” means an application for aid under these Regulations, and “application” is construed accordingly;

“approved proposal” means a proposal for the receipt of aid which the Scottish Ministers have approved under these Regulations for the payment of aid, and “approve” and “approval” are construed accordingly;

[^{F1}“area related options” means those rural priorities options numbered 15 to 57, 60 and 61 and 74 to 77 in Schedule 2;]

“authorised person” means a person who is authorised by the Scottish Ministers under regulation 14, either generally or specifically, to act in relation to matters arising under these Regulations;

“beneficiary” means—

- (a) a person whose application for aid has been approved by the Scottish Ministers; or
- (b) a person who takes on an undertaking on a change of occupation as provided in regulation 13;

“capital items” means the capital items referred to in regulation 9 and column 1 of Schedule 3 and any specific capital items referred to in any rural priorities options and includes the outcome plan in regulation 5, and “capital item” is construed accordingly;

“Commission Regulation 796/2004” means Commission Regulation (EC) No. 796/2004 laying down detailed rules for the implementation of cross compliance, modulation and the integrated administration and control system provided for in ^{F2}... [^{F3}Council Regulation 73/2009] establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers ^{M8};

“Commission Regulation 1974/2006” means Commission Regulation (EC) No. 1974/2006, as amended by Commission Regulations (EC) No. 434/2007^{M9} and (EC) 1236/2007^{M10} laying down detailed rules for the application of Council Regulation (EC) No. 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ^{M11},

“Commission Regulation 1975/2006” means Commission Regulation (EC) No. 1975/2006^{M12} as corrected by Commission Regulation (EC) No. 1396/2007^{M13} laying down detailed rules for

the implementation of Council Regulation (EC) No. 1698/2005, as regards the implementation of control procedures as well as cross compliance in respect of rural development support measures;

“compliance requirements” means the compliance requirements specified in regulation 9(5);

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.....

“Council Regulation 1698/2005” means Council Regulation (EC) No. 1698/2005^{M14}, as amended by Council Regulations (EC) No. 1944/2006^{M15} and (EC) No. 2012/2006^{M16} on support for rural development by the European Agricultural Fund for Rural Development (EAFRD);

[^{F5}“Council Regulation 73/2009” means Council Regulation (EC) 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No. 1290/2005, (EC) No. 247/2006, (EC) No. 378/2007 and repealing Regulation (EC) No. 1782/2003]

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

“eligible land” means land which is eligible in accordance with regulation 7 as read with any relevant specific requirements under the particular rural priorities options;

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

“holding” means all the production units managed by a farmer that are situated within Scotland;

“IACS Regulations” means the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005^{M18};

“IACS year” has the meaning given to it in regulation 2(1) of the IACS Regulations;

“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;

“programme guidance” means the guidance published by the Scottish Ministers from time to time under regulation 21^{M19};

“regional priorities” means those descriptions of those national policy outcomes which have been identified as regionally important as outlined in the programme guidance;

“relevant period” means the period of the undertaking as determined under regulation 9(2) and the relevant period may be different for each different undertaking;

“rural priorities options” means the options set out in Schedule 2;

“single application” has the meaning given to it in Article 2(11) of Commission Regulation 796/2004;

“tenant” means—

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- (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
- “undertaking” means an undertaking or undertakings in writing given by a beneficiary in accordance with regulation 9.

(2) 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 ^{M20} which has been recorded and is consequently capable of being reproduced.

(3) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation or numbered Schedule will be construed as a reference to the regulation or Schedule so numbered in these Regulations.

(4) Any reference in these Regulations to a numbered paragraph, shall be construed as a reference to the paragraph so numbered in the regulation or Schedule in which the reference occurs.

(5) Words and phrases used in Schedules 2 to 4 and not defined in paragraph (1) or in the particular Schedule will be construed in accordance with Schedule 1.

Textual Amendments

- F1** Words in reg. 2 substituted (28.6.2008) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment Regulations 2008 \(S.S.I. 2008/233\)](#), regs. 1, **3**
- F2** Words in reg. 2 omitted (7.11.2009) by virtue of [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **3(a)**
- F3** Words in reg. 2 inserted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **3(a)**
- F4** Words in reg. 2 omitted (7.11.2009) by virtue of [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **3(b)**
- F5** Words in reg. 2 inserted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **3(b)**

Marginal Citations

- M4** 1911 c. 49.
- M5** 1991 c. 55.
- M6** 1993 c. 44.
- M7** 2003 asp 11.
- M8** O.J. No. L 141, 30.4.2004, p.18 as last relevantly amended by Commission Regulation (EC) No. 1550/2007 (O.J. No. L 337, 21.12.2007, p.79).
- M9** O.J. No. L 104, 21.4.2007, p.8.
- M10** O.J. No. L 280, 24.10.2007, p.3.
- M11** O.J. L 368, 23.12.2006, p.15.
- M12** O.J. No. L 368, 23.12.2006, p.74.
- M13** O.J. No. L 311, 29.11.2007, p.3.
- M14** O.J. No. L 277, 21.20.2005, p.1.

- M15** O.J. No. L 367, 22.12.2006, p.23.
M16 O.J. No. L 384, 29.12.2006, p.8.
M17 1955 c. 21 repealed by the [Crofters \(Scotland\) Act 1993 \(c. 4\)](#) which continued in existence the Crofters Commission.
M18 [S.I. 2005/218](#).
M19 The programme guidance is available online at www.scotland.gov.uk or from Scottish Government Rural Directorate, Pentland House, Robb's Loan, Edinburgh, EH14 1TY.
M20 2000 c. 7 as amended by paragraph 158 of Schedule 17 to the [Communications Act 2003 \(c. 21\)](#).

Application for aid

3.—(1) Subject to paragraph (5), an application for aid must be submitted in writing for approval to such authority and in such form and manner as the Scottish Ministers may reasonably require.

(2) An application for aid by a grazings committee must include—

- (a) the written consent of a majority of the crofters ordinarily resident in the township and sharing in the common grazing which is the subject of the proposal;
- (b) evidence that notice has been given in accordance with regulation 6(4); and
- (c) confirmation from the Crofters Commission that it has approved the proposal or, as the case may be, has received no representation under regulation 6(5).

(3) The Scottish Ministers may at any time suspend the operation of the programme provided for by these Regulations and, while so suspended, no application for aid under paragraph (1) may be submitted to them.

(4) An applicant may submit more than one application under this regulation.

(5) The application for aid must include an undertaking.

(6) Where such undertaking specifies activities under area related options, the applicant must be either—

- (a) the owner of the eligible land; and
 - (i) in lawful actual occupation of that land; or
 - (ii) have undertaken jointly with any tenant to assume the obligations under their activities or an undertaking (regulation 13 applying in the case where the tenant's tenancy has ended); or
- (b) the tenant of the eligible land who is in lawful actual occupation of that land—
 - (i) under a lease which will run until the end of the relevant period of the undertaking;
 - (ii) under a lease with security of tenure by virtue of any statutory provision until the end of that period; or
 - (iii) in the case where neither (i) nor (ii) applies where the tenant has jointly with the landlord given the undertaking until the end of that period (in which case regulation 13 shall apply);

(7) Where there is more than one relevant period in relation to an undertaking or undertakings the longer of the relevant periods is deemed to be the relevant period for the purposes of paragraph (6).

(8) An applicant must provide any information and evidence the Scottish Ministers reasonably require in order to consider the application.

Payment of aid

4.—(1) Subject to the provisions of these Regulations, the Scottish Ministers may make payment of aid to a beneficiary who has given an undertaking.

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(2) Where such undertaking includes activities or capital items under area related options, the Scottish Ministers may make payment of aid to a beneficiary who is the owner or tenant of the eligible land to which the undertaking relates and is in lawful occupation of that land or, in the case of an owner, has jointly with the tenant, given such undertaking.

(3) Payment of aid shall be made subject to the condition that the beneficiary complies with the undertaking.

Outcome plans

5.—(1) An application for aid may include an outcome plan which must be in writing, in such form and contain such information as the Scottish Ministers may reasonably require.

(2) Subject to paragraph (4), the Scottish Ministers may contribute towards the costs of an outcome plan at the rate of 50% of the total cost subject to a maximum payment of £200 per applicant.

(3) Where the Scottish Ministers approve, an applicant may submit an outcome plan which has been prepared by a specialist or following specialist advice.

(4) The Scottish Ministers may contribute towards the cost of an outcome plan approved under paragraph (3) at the rate of 50% of the total cost subject to a maximum payment of £400 per applicant.

Crofters common grazings

6.—(1) Subject to paragraph (4), a grazings committee may, with the consent of a majority of the crofters ordinarily resident in the township and sharing in the common grazing, submit an application for aid in relation to that common grazing.

(2) Where an undertaking is given by a grazings committee, such undertaking must include an obligation upon the committee to bind their successors in office to the undertaking.

(3) Subject to paragraph (4), payments of aid to a grazings committee must be made to the clerk of the grazings committee and the clerk shall—

- (a) divide the aid among the eligible crofters in such proportion as determined by the grazings committee; or
- (b) reimburse the aid accordingly.

(4) Prior to submitting an application for aid a grazings committee must give notice of their intention to do so and of their proposed division of the aid or reimbursement under paragraph (3), by serving notice in writing of the proposed application and the proposed division of aid or reimbursement on all crofters sharing in that common grazing.

(5) Any such crofter as is mentioned in paragraph (4) may within one month of the date of the notice under that paragraph make representations in respect of the proposed application and the proposed division of aid or reimbursement to the Crofters Commission who may approve the proposed application and the proposed division of aid or reimbursement with or without modification, or reject them.

(6) Where the Crofters Commission receives representations under paragraph (5) in respect of a proposed application the grazings committee will only be entitled to submit the proposed application, incorporating any modification made by the Crofters Commission, approved by the Crofters Commission under paragraph (5).

(7) Where an undertaking is given by 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, will be deemed to be the actings of, or a breach by, the grazings committee for the purposes of these Regulations.

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Eligible land

7.—(1) Where an undertaking includes activities and capital items under area related options, land is eligible to have such activities or capital items carried out on it if it is land in Scotland declared in the single application and—

- (a) the land is—
 - (i) comprised in an agricultural parcel in accordance with [F6Article 19 of Council Regulation 73/2009] and Article 12(1)(d) of Commission Regulation 796/2004 and given a unique identification number compatible with the identification system for agricultural parcels referred to in [F7Article 17 of Council Regulation 73/2009]; or
 - (ii) approved for that purpose and given a unique identification number compatible with the identification system for agricultural parcels referred to in [F8Article 17 of Council Regulation 73/2009] by the Scottish Ministers; and
- (b) compliant with any particular eligibility or site requirements specified in column 2 of Schedule 2 in relation to the particular activity under the relevant area related option.

(2) In declaring the land in the application for aid under paragraph (1), the applicant must use the unique identification number for each reference parcel of land under or compatible with the identification system for agricultural parcels referred to in [F9Article 17 of Council Regulation 73/2009] and Article 6 of Commission Regulation 796/2004 where that number exists at the date of the application.

Textual Amendments

- F6** Words in reg. 7(1)(a)(i) substituted (7.11.2009) by virtue of [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **4(a)**
- F7** Words in reg. 7(1)(a)(i) substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **4(b)**
- F8** Words in reg. 7(1)(a)(ii) substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **4(b)**
- F9** Words in reg. 7(2) substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **4(b)**

Determination of applications for aid

8.—(1) The Scottish Ministers may approve (in whole or in part) or may reject an application for aid and in determining whether an application should be so approved or rejected, they must have regard to—

- (a) the extent to which the application—
 - (i) meets regional priorities; and
 - (ii) is feasible and economically viable;
- (b) the aid likely to be required and how that value compares with other applications; and
- (c) the value for money which the application represents having regard to sub-paragraphs (a) and (b).

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

(3) The Scottish Ministers must notify the applicant in writing of their decision in respect of the application and notify the applicant whose application has been approved under this paragraph of any conditions relating to such approval which they have imposed under paragraph (2) above.

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(4) The Scottish Ministers may vary an approval of an application as they think fit including any conditions subject to which it was given.

(5) Before varying an approval or conditions attached to an approval in accordance with paragraph (4), the Scottish Ministers must—

- (a) give to the beneficiary written notification of the variation or amendment proposed;
- (b) give the beneficiary an opportunity to make representations about the proposed variation within such time and in such form as the Scottish Ministers may require; and
- (c) consider any such representations.

(6) Before approving an application, the Scottish Ministers may consult such persons as they consider appropriate.

Undertakings

9.—(1) A beneficiary must give the Scottish Ministers an undertaking to carry out, or as the case may be, to carry out and maintain at least one of the activities set out in column 2 of Schedule 2 in accordance with the eligibility conditions and requirements set out in the paragraph which begins that Schedule and that column and, as the case may be, column 3 of that Schedule in relation to that activity unless an activity must be undertaken in conjunction with another activity under either the same or a different rural priorities option as set out in Schedule 2.

(2) Each undertaking given must be for a period as determined by the Scottish Ministers (“the relevant period”) and in the case of an undertaking to carry out activities under area related options the relevant period must be not less than 5 years.

(3) More than one relevant period may apply in relation to different undertakings or activities to be carried out or carried out and maintained in terms of an undertaking.

(4) The date of commencement of each undertaking and such activity shall be determined by the Scottish Ministers.

(5) Where an undertaking given under paragraph (1) specifies an activity or activities under any of the rural priorities options numbered 15 to 57 ^{F10}and 74 to 77] the beneficiary must also undertake, in relation to the whole of the beneficiary's holding, to comply with the following compliance requirements—

- (a) the statutory management requirements established by ^{F11}Article 5 of and Annex II to Council Regulation 73/2009] as amended from time to time;
- (b) the good agricultural and environmental conditions specified in regulation 4 of and the Schedule to the Common Agricultural Policy Schemes (Cross-Compliance) (Scotland) Regulations 2004 ^{M21};
- (c) the historic environment condition specified in Part 1 of Schedule 4 to these Regulations;
- (d) the requirements applicable under the enactments specified in Part 2 of Schedule 4 to these Regulations.

(6) Where an undertaking given under paragraph (1) specifies an activity or activities under either or both the rural priorities options, the Woodland creation option numbered 60, or the Sustainable management of forests and woodlands option numbered 61 and no activity or activities under any of the rural priorities options numbered 15 to 57 ^{F12}and 74 to 77] are specified in such undertaking the beneficiary must also undertake, in relation to the whole of the beneficiary's holding to comply with the compliance requirements in paragraph (5)(a) and (b).

(7) Where an undertaking given under paragraph (1) specifies an activity or activities under area related options the beneficiary may also undertake to carry out one or more of the capital items set out in column 1 of Schedule 3.

(8) A beneficiary must give the Scottish Ministers any other such undertakings as the Scottish Ministers consider appropriate for the purposes of these Regulations.

Textual Amendments

- F10** Words in reg. 9(5) inserted (28.6.2008) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment Regulations 2008 \(S.S.I. 2008/233\)](#), regs. 1, 4
- F11** Words in reg. 9(5)(a) substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, 5
- F12** Words in reg. 9(6) inserted (28.6.2008) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment Regulations 2008 \(S.S.I. 2008/233\)](#), regs. 1, 4

Marginal Citations

- M21** [S.S.I. 2004/518](#) as amended by [S.S.I. 2005/143](#) and 2007/99.

Restrictions on approval of applications and payment of aid

10.—(1) The Scottish Ministers must not approve an application for aid in relation to any eligible land which is occupied by a tenant unless they are satisfied that the tenant has notified the landlord, and in the case of a sub tenant, the owner of the eligible land and the head tenant, of the intention of that tenant to submit an application for aid.

(2) The Scottish Ministers must not pay aid—

- (a) if they are satisfied that the use of the land in accordance with the proposals contained in an application for aid 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;
- (b) if they are satisfied that any payment 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;
- (c) where the beneficiary is excluded from support under Council Regulation (EC) No. 1257/1999^{M22} or Council Regulation 1698/2005 by application of a penalty consequent upon Articles 18, 23 or 31 of Commission Regulation 1975/2006.

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

Marginal Citations

- M22** O.J. No. 160, 26.06.1999, p.80 as last amended by Council Regulation (EC) No. 1698/2005 (O.J. No. L 277, 21.10.2005, p.1).

Rates of payment for activities undertaken

11. The amount of aid payable under regulation 4 shall be calculated with reference to—

- (a) the activity or activities undertaken, and the maximum rate of payment in respect of each activity described in column 2 of Schedule 2 shall be the rate shown opposite the entry for that activity in column 3 of that Schedule; and
- (b) where appropriate, the capital item or items undertaken, and the maximum rate of payment in respect of each capital item described in column 1 of Schedule 3 shall be the rate shown opposite the entry for that capital item in column 2 of that Schedule.

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Claims and payment

12.—(1) Payment of aid under regulation 4 shall be made only on receipt of a claim for payment made by the beneficiary in writing in such form and manner and at such time as the Scottish Ministers from time to time require.

(2) The beneficiary must provide all particulars and information relating to such claim and copies of such documents and records relating thereto as the Scottish Ministers may reasonably require.

(3) The Scottish Ministers may make payments of aid by lump sums or instalments and in particular payment of aid shall be made—

(a) in the case of a payment relating to an activity under area related options [^{F13}(except those area related options numbered 74 to 77)] included in an undertaking, by annual payments paid in arrears, and the claim for such payment must—

(i) be submitted in accordance with the deadline for single applications as specified in regulation 6 of the IACS Regulations for the IACS year which begins in the calendar year in which the particular undertaking commences;

(ii) contain the information specified in Article 12 of Commission Regulation 796/2004 in relation to single applications; and

(iii) specify the unique identification number for each reference parcel of land under or compatible with the identification system for agricultural parcels referred to in [^{F14}Article 17 of Council Regulation 73/2009] and Article 6 of Commission Regulation 796/2004; and

(b) in the case of a payment relating to a capital item, excluding those capital items set out in Schedule 3, included in an undertaking, upon completion of the work and following production of evidence that the amount of eligible expenditure for which aid is claimed has been defrayed, including details of any discount thereon received.

(4) Paragraph (3)(a) applies to both agricultural and non-agricultural land.

(5) Payment as provided in paragraph (1) shall be made only where the Scottish Ministers are satisfied that—

(a) the eligibility conditions and requirements set out in the paragraph which begins Schedule 2 and in column 2 of that Schedule and, as the case may be, column 3 of that Schedule, in relation to that activity have been met; and

(b) where an undertaking specifies an activity or activities under an area related option the relevant compliance requirements as undertaken in terms of regulation 9(5) have been complied with.

(6) The provisions of these Regulations are, insofar as the aid claimed includes aid under Council Regulation 1698/2005, subject to Article 5 of Council Regulation 1698/2005 and Article 2 and paragraphs 5 and 6 of Article 27 of Commission Regulation 1974/2006.

Textual Amendments

F13 Words in reg. 12(3)(a) inserted (28.6.2008) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment Regulations 2008 \(S.S.I. 2008/233\)](#), regs. 1, 5

F14 Words in reg. 12(3)(a)(iii) substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, 6

Change of occupation of land

13.—(1) Where during the relevant period of an undertaking, there is a change of occupation of all or any part of the land to which that undertaking relates, subject to the provisions of this regulation, the Scottish Ministers shall accept an undertaking from the new occupier.

(2) Where such a change of occupation occurs the former occupier (or, if that occupier has died, the occupier's executors) must within 3 months notify the Scottish Ministers in writing of the change of occupation, and must supply to the Scottish Ministers such information relating to that change in such form and within such period as the Scottish Ministers may determine.

(3) A new occupier of all or any part of the land who wishes to take on the undertaking, or a landlord who has undertaken jointly with the tenant, to assume any undertaking and who becomes a new occupier when the tenancy ends, must furnish the Scottish Ministers with such information in such form and within such period following the change of occupation as the Scottish Ministers may determine.

(4) A new occupier of all or any part of the land may take on the undertaking where the Scottish Ministers are satisfied that—

- (a) the former occupier had complied with the undertaking to the date of the change of occupation; and
- (b) the new occupier is the lawful occupier of the land and has since the date of the change of occupation complied with the undertaking.

(5) A new occupier of all or any part of the land or, as the case may be, the former occupier of all or any part of the land may take on the undertaking insofar as it extends to that part of the land which that person occupies, or as the case may be continues to occupy, where the Scottish Ministers are satisfied that—

- (a) such new occupier or, as the case may be, such former occupier of all of the land, is the lawful occupier of the part of the land which that person occupies and has since the date of change of occupation complied or, as the case may be, continued to comply with the undertaking insofar as it extends to the part of the land which that person occupies; and
- (b) it is reasonable for the occupier to do so having regard to the activities included in the undertaking and the part of the land which is occupied by the new occupier or, as the case may be, continues to be occupied by the former occupier of all the land.

(6) Where an undertaking specifies activities under area related options and where, during the period of an undertaking, an occupier increases the area of their landholding the occupier must comply with the relevant compliance requirements as regards the increased area of landholding and, if the occupier wishes the undertaking to also apply to the increased area of landholding, the occupier must submit to the Scottish Ministers an application for aid in accordance with regulation 3.

(7) Where occupation of the land is divided, the Scottish Ministers shall determine—

- (a) the extent to which the activities included in the undertaking relate to any part of the land occupied by a new occupier or, as the case may be, the former occupier of all the land; and
- (b) the proportion, if any, of any payments which would be payable under paragraph (8) for the remainder of the period of the undertaking in respect of that part of the land.

(8) Where the Scottish Ministers are satisfied as specified in paragraph (4), they shall, subject to regulation 4, make payments for the remainder of the period of the undertaking to the new occupier of the land who has taken on the undertaking.

(9) Where the Scottish Ministers are satisfied as to the matters specified in paragraph (5), they shall, subject to regulation 4, make payments of such proportion, if any, as they have determined under paragraph (7) are due for the remainder of the period of the undertaking to the new occupier or, as the case may be, former occupier of all the land who has taken on the undertaking.

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(10) Where within 3 months from the date of change of occupation the undertaking has not been taken on in accordance with paragraph (4) or, as the case may be, paragraph (5), 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 made under these Regulations already made to that person in respect of the undertaking.

(11) 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 period of the undertaking but does not include a change in the membership of the grazings committee.

(12) The provisions of this regulation are, insofar as the aid paid under these Regulations includes aid under Council Regulation 1698/2005, subject to Articles 44 and 45 (transfer of holding) and Article 47 (force majeure or exceptional circumstances) of Commission Regulation 1974/2006, and where a beneficiary is required to reimburse the aid paid, interest shall be payable thereon at the rate calculated in accordance with that provided in regulation 19.

Powers of authorised persons

14.—(1) The Scottish Ministers may authorise a person, either generally or specifically, to act in relation to matters arising under these Regulations, and 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 or premises—

- (a) to which an application for aid or undertaking relates; or
 - (b) on which the authorised person has reasonable grounds to believe that documents relating to an application for aid or undertaking 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 an applicant or a beneficiary or on the applicant's or the beneficiary's behalf, relating to an application, a claim for aid or an undertaking;
 - (c) determining whether or not a beneficiary has complied with an undertaking; or
 - (d) providing a control report in accordance with Article 13 or 19(2) of Commission Regulation 1975/2996.
- (3) An authorised person who has entered any land or premises 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 payment of aid or an undertaking;
 - (b) require the applicant or the beneficiary, or any employee or agent of such applicant or beneficiary, to produce, or secure the production of, any document or supply any additional information in the applicant's or beneficiary's possession or under the applicant's or the beneficiary's control relating to an application, a claim for payment of aid or an undertaking, 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;
 - (f) seize and retain any document or other record which that person reasonably believes may be required as evidence in proceedings under these Regulations; and
 - (g) in so far as may be necessary for the purposes of paragraph (2)(b) or (c), inspect and count livestock on the land or premises and may, for this purpose, require the applicant or the beneficiary, or any employee or agent of such applicant or beneficiary, to arrange for the collection, penning and securing of such livestock.
- (4) An authorised person who enters any land or premises under paragraph (1) for the purposes referred to in paragraph (2)(c) or (d) may exercise, in addition to the powers specified in paragraph (3), any of the powers specified in Regulation 6(3) of the Common Agricultural Policy Schemes (Cross-Compliance) (Scotland) Regulations 2004 ^{M23}.
- (5) An applicant or beneficiary or any employee or agent of such applicant or beneficiary must give an authorised person all reasonable assistance in relation to the matters mentioned in paragraphs (1) and (3) above.
- (6) 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.
- (7) An authorised person will not be liable in any proceedings for anything done in exercise of the powers conferred on an authorised person by these Regulations if a court, hearing such proceedings, is satisfied that—
- (a) the act was done in good faith;
 - (b) there were reasonable grounds for doing it; and
 - (c) it was done with reasonable skill and care.
- (8) Paragraph (1) above applies to any land used for the purposes of a dwellinghouse only where reasonable notice of its intended exercise has been given to all residents of that dwellinghouse.

Marginal Citations

M23 [S.S.I. 2004/518](#) as amended by [S.S.I. 2005/143](#) and 2007/99.

Breaches of undertakings etc.

15.—(1) Where—

- (a) any information furnished to the Scottish Ministers by the applicant or beneficiary or on the applicant's or beneficiary's behalf, is false or misleading in a material respect;
- (b) the beneficiary is in breach of any of the terms of an undertaking or any condition subject to which approval was given or payment of aid was made;
- (c) the beneficiary is in breach of any requirement to which the beneficiary is subject under these Regulations or under Council Regulation 1698/2005, Commission Regulation 1974/2006 or Commission Regulation 1975/2006; or
- (d) the whole or any part of any sum paid or payable under an undertaking duplicates assistance provided or to be provided out of monies made available by—

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- (i) the European Community; or
- (ii) under any statutory provision,

the Scottish Ministers may exercise any of the powers specified in regulation 17.

(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.

(3) Where—

- (a) there is a change of occupation under regulation 13 and the beneficiary has transferred all or part of the land to which an undertaking relates to another person (“the successor”);
- (b) the successor has, within three months of the date of the transfer, given notice to the Scottish Ministers to assume the undertaking in place of the beneficiary; and
- (c) the Scottish Ministers have accepted that undertaking,

the beneficiary shall be released from their undertaking with effect from the date of the acceptance by the Scottish Ministers of the successor's undertaking other than in respect of any breach or other matter occurring before the date last mentioned.

Other cases in which recovery etc. powers apply

16. The Scottish Ministers may exercise the powers specified in paragraph (1)(a) to (d) of regulation 17 where they are satisfied that—

- (a) there has been a material change in the nature, scale or timing of the activities or capital items in relation to which an undertaking has been made;
- (b) the activities or capital items in relation to which an undertaking has been made are delayed or are unlikely to be completed;
- (c) the applicant or beneficiary has intentionally obstructed an authorised person (or a person accompanying that person and acting under that person's instructions) in the exercise of the powers under regulation 14 or failed to comply with a requirement imposed under regulation 14(3)(b) to (g);
- (d) sums paid are otherwise not due under these Regulations; or
- (e) the European Commission has decided that the aid paid, or to be paid, does not comply with Council Regulation 1698/2005, Commission Regulation 1974/2006 or Commission Regulation 1975/2006.

Powers of recovery etc. of the Scottish Ministers

17.—(1) The powers conferred by regulations 15 and 16 are—

- (a) to apply a reduction to any payment of aid made, or to be made to the applicant or beneficiary under these Regulations;
- (b) to revoke or vary (including any conditions subject to which it was given) the approval in respect of the whole or any part of a payment of aid to be made;
- (c) to withhold the whole or any part of the aid payable to the beneficiary; and
- (d) to recover on demand the whole or any part of any aid already paid to a beneficiary.

(2) Where the powers specified in paragraph (1) are exercised and the Scottish Ministers also think that the applicant or beneficiary acted recklessly, the Scottish Ministers may also require the beneficiary to pay to the Scottish Ministers an additional sum equal to no more than 10% of the aid paid or payable to the beneficiary.

(3) Where the Scottish Ministers take any step specified in paragraph (1), the Scottish Ministers may also suspend or terminate the undertaking, and thereupon any entitlement of the beneficiary to aid in respect of the unexpired period of the undertaking shall likewise be suspended or terminated, as the case may be.

(4) A reduction under paragraph (1)(a) must be applied in accordance with Council Regulation 1975/2006.

(5) Before the Scottish Ministers do anything under paragraph (1), (2) or (3), they must—

- (a) give the applicant or beneficiary in respect of whom such a step is proposed to be taken, written notification of that step, and if appropriate the amount by which it is proposed that the aid be reduced or the amount of such aid which it is proposed be withheld or recovered;
- (b) give that applicant or beneficiary an opportunity to make representations about the proposed step, within such time and in such form as they think fit; and
- (c) consider such representations.

Information and records

18.—(1) A beneficiary must—

- (a) retain all invoices, accounts and other relevant documents in relation to the application for aid or undertaking and produce them for inspection if required to do so by the Scottish Ministers; and
- (b) provide such additional information in relation to the application for aid, undertaking or aid paid in pursuance of the application for aid or undertaking as the Scottish Ministers may require.

(2) The duties in paragraph (1) apply—

- (a) in the case of a payment of aid for the purchase of heritable property, for a period of 10 years;
- (b) in any other case, for a period of 6 years;

(in either case) following the last payment of aid under these Regulations.

(3) If the beneficiary transfers the original of any such document to another person in the normal course of business, the beneficiary must keep a copy of that document for that period.

(4) Paragraph (1) does not apply where the document has been removed by any person lawfully authorised to remove it.

Recovery of interest

19.—(1) Where the Scottish Ministers exercise the power conferred by regulation 17(1)(d) they may also recover on demand interest on the sum to be recovered at a rate of interest one per cent above the sterling 3 month London interbank offered rate on a day to day basis from the date of demand of repayment until the date of recovery.

(2) In any proceedings for recovery under these Regulations, a certificate issued by the Scottish Ministers stating the rate or rates of interest, the amount of such 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 be recoverable as a debt

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

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Guidance

21.—(1) The Scottish Ministers may publish guidance from time to time on—

- (a) the circumstances in which they will normally apply a reduction under regulation 17(1) (a), and the amount such a reduction will normally be; and
- (b) generally, how they intend to perform their functions under these Regulations.

(2) The Scottish Ministers must have regard to any guidance published under paragraph (1) when performing their functions under these Regulations.

Offences

22.—(1) A person is guilty of an offence if—

- (a) for the purposes of obtaining any financial assistance under these Regulations for themselves or any other person, they knowingly or recklessly make a statement which is false or misleading in any material particular; or
- (b) they intentionally obstruct an authorised person (or a person accompanying that person and acting under that person's instructions) in the exercise of the powers under regulation 14.

(2) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Proceedings for an offence under these Regulations may be commenced within the period of 12 months from the date on which the offence was committed.

(4) Section 136(3) of the Criminal Procedure (Scotland) Act 1995 ^{M24} (date of commencement of proceedings) shall apply for the purposes of this regulation as it applies for the purposes of that section.

(5) Where an offence under paragraph (1) 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 similar officer of the 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, is guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(6) Where the affairs of a body corporate are managed by its members, paragraph (5) applies in relation to the acts and defaults of a member in connection with the member's management functions as if the member were a director of the body corporate.

Marginal Citations

M24 1995 c. 46.

Right of appeal

23. The Agricultural Subsidies (Appeals) (Scotland) Regulations 2004 ^{M25} are amended by inserting after regulation 4(t)—

- “(u) a decision by the Scottish Ministers to withhold any aid due or recover any aid paid (in whole or in part) or require payment of any sum under the Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008, in terms of those Regulations.”.

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Marginal Citations

M25 [S.S.I. 2004/381](#) as amended by [S.S.I. 2005/117](#), 225 and 569 and 2007/439.

St Andrew's House,
Edinburgh

RICHARD LOCHHEAD
A member of the Scottish Executive

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SCHEDULE 1

Regulation 2(5)

INTERPRETATION OF SCHEDULES

In Schedules 2, 3 and 4 and in this Schedule—

“the 1994 Regulations” means the Organic Aid (Scotland) Regulations 1994 ^{M26};

“the 2004 Regulations” means the Organic Aid (Scotland) Regulations 2004 ^{M27};

“alpaca” means any alpaca of any breed which are kept by way of business for the primary purpose of fibre production;

“ancient wood pasture” means land currently listed in, and land which is a candidate for listing in, the “Inventory of Ancient Wood Pasture in Scotland” as maintained by Scottish Natural Heritage ^{M28};

“arable crops” means cereals, linseeds, oilseed, root crops, fruit crops or protein crops, including vining peas;

“arable land” means 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 five years prior to the 15th May in the year of submission of the application for aid;

“beetlebank” means a grass strip between 1.5 metres and 6 metres created in the margin of or through an arable field in order to allow beneficial insects to over-winter;

“bio-bed” means a shallow excavation filled with biomass;

“breeding cow” means a cow that forms part of a herd either used for rearing calves for meat production or used for milk production and which has borne a calf;

“coastal heath” means land bordering the sea containing moorland or species-rich grassland affected by salt spray and exposure;

[^{F15}“community woodland” means woodland where at least 50% of the planting is located within 1 kilometre of the homes of 2000 or more people following liaison and consultation with the community and designed to provide opportunities for public access and recreation;

“control body” means an independent private third party organisation carrying out inspection and certification in organic production as in Article 2 of Council Regulation 834/2007;]

[^{F16}“Council Regulation 834/2007” means Council Regulation (EC) No. 834/2007 on organic production and labelling of organic products and repealing Regulation (EEC) No. 2092/91 as amended by [Commission Regulation \(EC\) No. 889/2008](#) laying down detailed rules for the implementation of Council Regulation (EC) No. 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control and [Commission Regulation \(EC\) No. 1235/2008](#) laying down detailed rules for implementation of Council Regulation (EC) No. 834/2007 as regards the arrangements for imports of organic products from third countries;]

“cropped machair” means sandy plains formed when calcareous shell-sand has been blown over glacial deposits and peat and which has been subject to cultivation within the last 10 years;

“designed landscape” means a garden or a landscape, including parkland policy grassland, which is included in a record, recognised by the Scottish Ministers, of existing historic gardens and designed landscapes;

“ditches” means a man-made channel or adapted watercourse on in-by-land, which has a bed width of not less than 0.3 metres and which generally carries water away from surrounding land or field drainage systems throughout the year;

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“ewe” means a female sheep which is at least one year old on the 1st of January preceding the application for aid and which is kept in a breeding flock;

“European site” has the meaning given in regulation 10 of the Conservation (Natural Habitats &c.) Regulations 1994 ^{M29};

“farmed deer” means any deer (of any species) which are managed on a holding enclosed by a deer-proof barrier and are kept on the holding by way of business for the primary purpose of the production of meat;

[^{F17}“favourable condition” means in relation to the features for which SSSI sites or European sites are designated that such sites are (1) in satisfactory condition as determined by SNH or (2) recovering, with the necessary management measures in place, such that SNH predicts that such sites will in due course reach satisfactory condition;]

“floodplain” means eligible land adjacent to a watercourse which is subject to flooding in times of high water level;

“formally in conversion” means that the necessary formal written consent has been obtained by the applicant from [^{F18}a control body] that the land is in conversion;

“full organic certification” means certification from [^{F18}a control body] that the land is fully organic;

“fully organic” means land which is farmed in accordance with [^{F19}Council Regulation 834/2007] and the Organic Standards Compendium which has been certified as fully organic by [^{F18}a control body];

“goat” means any goat (of any species) which is kept by way of business for the purposes of fibre, meat or milk production;

“grass margin” means a grass strip between 1.5 metres and 6 metres created in the margin of or through an arable field in order to allow beneficial insects to over-winter;

“HAP” means a Habitat Action Plan which is part of the UK Biodiversity Action Plan ^{M30};

“hedge” means a line of shrubs or trees which delineate field boundaries;

“herd” means two or more breeding cows of either pure-bred or first cross native or traditional breed;

“IACS business” means a business registered on the Integrated Administration and Control System run by the Scottish Government Rural Payments and Inspections Directorate and given a unique business reference number;

“improved grassland” means either land used for grazing (other than arable land) where over one third of the sward comprises, singly or in mixture, ryegrass, cocksfoot or timothy, or land that has been improved by management practices such as liming and top dressing, where there is not a significant presence of sensitive plant species indicative of native unimproved grassland;

“in-bye land” means that part of a farm not comprising the hill and rough grazings, the bulk of which is used for arable and grassland production;

“indicator species” means the following:–

Yarrow (*Achillea millefolium*);

Lady's Smock (*Cardamine pratensis*);

Marsh Thistle (*Cirsium palustre*);

Tufted Hair-grass (*Deschampsia caespitosa*);

Waxy Hair-grass (*Deschampsia flexuosa*);

Cat's-ear (*Hypochaeris radicata*);

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Wood-rush (*Luzula* spp.);
Black Medick (*Medicago lupulina*);
Selfheal (*Prunella vulgaris*);
Common sorrel (*Rumex acetosa*);
Gorse (*Ulex europaeus*);
Germander Speedwell (*Veronica chamaedrys*);

“injurious weeds” means spear thistle, creeping or field thistle, curled dock, broadleaved dock, and common ragwort;

“Less Favoured Area” has the same meaning as in regulation 2(1) of the Less Favoured Area Support Scheme (Scotland) Regulations 2007^{M31};

“livestock” means bovine, ovine, caprine, alpaca and farmed deer;

“livestock unit” means a unit of measurement of livestock numbers, and each of the following constitute one livestock unit:–

- (a) one cow (including suckling calves);
- (b) one unit of cattle, other than a cow, aged 24 months and over;
- (c) 1.66 cattle, other than cows, aged over 6 months but less than 24 months;
- (d) 6.66 ewes (including suckling lambs);
- (e) 6.66 sheep, other than ewes;
- (f) 6.66 goats;
- (g) 2.5 adult stags farmed deer aged 27 months and over;
- (h) 3.33 hinds farmed deer (including suckling calves) aged 27 months and over;
- (i) 5 juvenile farmed deer, aged over 6 months but less than 27 months;
- (j) 3.33 alpacas;

“local ranger or access officer” means a ranger or access officer employed by SNH or a local authority or, if within a National Park, by the relevant Park Authority;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994^{M32};

“local development strategy” means a coherent set of projects, contracts or arrangements or other actions to meet local objectives and needs implemented in partnership at the appropriate level allowing achievement of the objective of improving the quality of life in rural areas and encouraging diversification of economic activity and encompassing one or more of the measures under Article 52 of Council Regulation 1698/2005;

“locally distinctive built boundary features” means the following – earthen and turf banks, ha has, parkland fencing, walled garden walls, bridges, gateposts, gatepiers, mounting stands, mile markers and stone stiles;

“lowland heath” means land generally found below 300 metres in altitude, usually characterised by plants such as heather, dwarf grass and cross based heath; amongst the heather layer, there are generally scattered areas of trees and scrub;

“lowland raised bog” means an isolated peat deposit over one metre thick that is surrounded by non peat soils;

“machair” means sandy plains formed when calcareous shell sand has been blown over glacial deposits and peat but does not include cropped machair;

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“moorland” means land with predominantly semi natural upland vegetation or comprising predominantly rock outcrops and semi natural upland vegetation, which is used for rough grazing;

“muirburn” has the same meaning as in section 39(1)(f) of the Hill Farming Act 1946 ^{M33};

“NSA” means a national scenic area defined as such in part 11 of “Scotland’s Scenic Heritage” published by the Countryside Commission for Scotland on 26th April 1978 ^{M34};

“National Park” means an area designated as such under section 2 of the National Parks (Scotland) Act 2000 ^{M35};

“Nitrates Action Programme” means the action programme set out in the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2003 ^{M36};

“nitrate vulnerable zone” means any area designated as a nitrate vulnerable zone by regulation 3 of the Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2002 ^{M37} and regulation 3 of the Designation of Nitrate Vulnerable Zones (Scotland) (No. 2) Regulations 2002 ^{M38};

“native woodland” means self seeded woodland of native species or woodland derived from an originally naturally occurring woodland;

^{F20}
...

“organic production” means land which is farmed in accordance with Council Regulation 2092/91 as read with any additional provisions as set out in the Organic Standards Compendium;

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

“Organic Standards Compendium” means the Compendium of UK Organic Standards published by the Department of Environment, Food and Rural Affairs ^{M39};

“organic viability proposal” means a proposal outlining how land will be converted to organic production as approved by [^{F18}a control body];

“outcomes of the SRDP” means the 5 main outcomes for rural development in Scotland as set out in the 2007 to 2013 Rural Development Programme for Scotland approved under Council Regulation 1698/2005 by the European Commission describing the measures arising out of Council Regulation 1698/2005 which will apply to Scotland over the period 2007 to 2013;

“overgrazing” means grazing land with livestock in such numbers as to adversely affect the growth, quality or species composition of vegetation (other than vegetation normally grazed to destruction) on that land to a significant degree;

“poaching” means the trampling or treading of the ground surface by livestock resulting in permanent damage to the vegetation;

“potential SPA” means a site identified by Scottish Ministers as potentially qualifying for special protection area classification and for which a decision to classify has yet to be taken pending consultation by SNH ^{M40};

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

“rural community group” means a community group which has a written constitution and which holds a bank account for the benefit of that group and whose membership is drawn from a rural settlement;

“rural settlement” means a settlement which has a population of less than 3000 according to the Scottish Executive Urban Rural [^{F21}Classifications] 2003-2004 ^{M41}[^{F22}, 2005–2006 or Scottish Government Urban Rural Classification 2007–2008];

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“scrub” means low growing woody vegetation of small trees and shrubs including linear scrub along field margins and includes all stages from scattered bushes to closed canopy vegetation dominated by locally native shrubs or tree saplings usually less than 5 metres tall occasionally with a few scattered trees, carr, scrub in the uplands and lowlands (including wood edge habitats), montane scrub and coastal scrub are included;

“SAC” means a special area of conservation designated as such pursuant to regulation 8 of the Conservation (Natural Habitats &c.) Regulations 1994 ^{M42};

“SAP” means a Species Action Plan which is part of the UK Biodiversity Action Plan ^{M43};

“SEPA” means the Scottish Environment Protection Agency;

“small unit” means an agricultural business with no more than 20 hectares of in by land;

“SNH” means Scottish Natural Heritage;

“SPA” means a special protection area being an area classified as such pursuant to Article 4(1) or (2) of Council Directive [79/409/EEC](#) on the conservation of wild birds;

“species-rich grassland” means in-by land used for grazing or mowing which is not normally treated with mineral fertiliser or lime and does not constitute rough grazing, but which is floristically diverse;

“SSSI Site” means a site of special scientific interest within the meaning of section 3(6) or of Schedule 5 to the Nature Conservation (Scotland) Act 2004 ^{M44};

“the Treaty” means the Treaty establishing the European Community;

“the UK Forestry Standard” means the UK Forestry Standard: the government's approach to sustainable forestry published by the Forestry Commission ^{M45};

“undergrazing” means grazing at a level where there is evidence of the annual growth not being fully utilised or scrub or coarse vegetation is becoming evident and such changes are detrimental to the environmental interest of the site;

“unimproved grassland” means in-by land used for grazing or mowing which is not normally treated with mineral fertiliser or lime and does not constitute either improved grassland or rough grazings;

“vegetable and fruit land” means land used for growing vegetable and fruit;

“water margin” means an area of in-by land bordering an area of still or flowing water;

“wetland” means in by ground which is normally saturated with water for a significant proportion of the year; and

“young farmer” means a person who at the time of submitting the application for aid is under 40 years of age.

Textual Amendments

- F15** Words in Sch. 1 inserted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **7(a)**
- F16** Words in sch. 1 substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **7(b)**
- F17** Words in Sch. 1 inserted (28.6.2008) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment Regulations 2008 \(S.S.I. 2008/233\)](#), regs. 1, **6**
- F18** Words in Sch. 1 substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **7(e)**
- F19** Words in Sch. 1 substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **7(c)**

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- F22** Words in Sch. 1 inserted (1.2.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment Regulations 2009 \(S.S.I. 2009/1\)](#), regs. 1, **3(b)**

Marginal Citations

- M26** [S.I. 1994/1701](#) as amended by [S.I. 1996/3083](#) and [1999/107](#).
- M27** [S.S.I 2004/143](#) as amended by [S.S.I. 2004/174](#) and [2005/619](#).
- M28** Scottish Natural Heritage was established under section 1 of the [Natural Heritage \(Scotland\) Act 1991 \(c. 28\)](#).
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- M30** The UK Biodiversity Plan was published in 1994 and has a dedicated website, www.ukbap.org.uk.
- M31** [S.S.I. 2007/439](#).
- M32** [1994 c. 39](#). Section 2 was amended by the [Environment Act 1995 \(c. 25\)](#), **Schedule 22**, paragraph 232.
- M33** [1946 c. 73 \(9 & 10 Geo. 6\)](#).
- M34** A map showing the National Scenic Areas is available online at www.scotland.gov.uk/Topics/Environment/Countryside/Heritage.
- M35** [2000 asp 10](#).
- M36** [S.S.I. 2003/51](#) as amended by [S.S.I. 2003/169](#).
- M37** [S.S.I. 2002/276](#) as amended by [S.S.I 2005/305](#).
- M38** [S.S.I. 2002/546](#).
- M39** The latest publication of the Organic Standards Compendium was published September 2006 and is available from defra online at www.defra.gov.uk/farm/organic or from Nobel House, 17 Smith Square, London SW1P 3JR.
- M40** A list of SPAs and potential SPAs is maintained by SNH and can be obtained online at www.snh.gov.uk or by contacting SNH at Great Glen House, Leakin Road, Inverness IV3 8NN. Potential SPAs are listed as "at consultation stage".
- M41** The Scottish Executive Urban Rural Classification is available online at www.scotland.gov.uk/publications or by contacting Rural Directorate, Pentland House, Robb's Loan, Edinburgh, EH14 1TY.
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SCHEDULE 2

Regulation 9(1)

RURAL PRIORITIES OPTIONS

PART 1OPTION, ACTIVITIES AND ELIGIBILITY
CONDITIONS AND RATES OF PAYMENTF23
...

<i>Column 1 Option</i>	<i>Column 2 Activity and eligibility conditions</i>	<i>Column 3 Rate of payment</i>
1. Skills development for individual land managers	<p>(1) A beneficiary is eligible for payment under this option if the beneficiary undertakes either—</p> <p>(a) vocational training courses for individual persons eligible to apply for any of the options numbered 2 to 62 in this schedule, the training courses must relate directly to an application for aid under any of those options; or</p> <p>(b) vocational training for persons involved in land management, including farming, crofting and forestry and who belong to an existing group set up with terms of reference and aims to improve land or business management performance and the following must apply—</p> <p>(i) there must be a minimum of 10 eligible trainees from</p>	<p>75percent; of the cost of training.</p> <p>An additional 10% for the organising member of the group based on the total cost of group training.</p>

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- at least 60% of the businesses belonging to such group;
- (ii) training must support the overall aims of the group, contribute to the SRDP outcomes and fall within one of the following categories—
 - (aa) information and communications technology;
 - (bb) business skills, including marketing and promotion;
 - (cc) conservation and environment skills;
 - (dd) diversification opportunities;
 - (ee) managing resources;
 - (ff) self and staff management;
 - (gg) looking at new ways of working;
 - (hh) technical skills;
 - (ii) on farm food production and

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processing
skills.

(iii) the group must
have been
formed at
least 6 months
before the date
the application
for aid was
submitted;

(iv) the group must
consist of at
least 10 eligible
businesses.

For both (a) and (b) above:

- (i) the beneficiary must be either a land manager, employee or immediate family member involved in the business and must be 16 years of age or older;
- (ii) the training provider must be certified by an appropriate certification body; and
- (iii) the course must not:
 - (aa) form part of normal agricultural, forestry or other programmes at secondary or higher education levels;
 - (bb) be required or lead to a certificate, licence, diploma or other qualification that is required by law to carry out the beneficiary's basic work activities; or
 - (cc) be funded, in whole or in part, by other public funds.

2. Setting up of young farmers

(1) A beneficiary is eligible for payment under this option if the beneficiary is a young farmer, is head (either sole trader or the majority partner in partnership or an equal partner with another young farmer)

An interest rate subsidy capped at 3.5% above the Bank of England Base rate up to a maximum of £27,397. Payment can be made by up to 5 annual instalments in arrears.

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of an agricultural business registered on IACS for the first time and has been head for no more than 12 months and–

- (a) prepares a business plan detailing the initial state of the business; the scope and aims of the project with milestones for development; the investments involved and any training advice or other action required and where the beneficiary does not hold a suitable agricultural qualification at least at Scottish Vocational Qualification level 2 or equivalent, the business plan must include a personal development plan including an objective to obtain an appropriate qualification within 3 years after approval of the application for aid. The plan must also include an objective to gain membership of a Quality Assurance Scheme appropriate to the business within 3 years of approval of the application.

(2) The business must have an agricultural standard labour requirement of at least 0.5 full time equivalent^{M46}.

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- | | | |
|------------------------------------|---|---|
| 3. Nutrient Management Plan | <p>(1) A beneficiary is eligible for payment under this option if the beneficiary–</p> <ul style="list-style-type: none">(a) completes a nutrient management plan (“NMP”) and implements nutrient planning and management on arable land and improved grassland;(b) calculates nutrient requirements of crops in selected fields taking account of the soil analysis results, nutrients available from previous inputs and cropping history;(c) follows Scottish Agricultural College recommendations for nitrogen, phosphorus and potassium;(d) keeps records of the quantities of mineral fertiliser, farmyard manure and slurry applied to the field and when these were applied;(e) keeps records of no spread zones;(f) applies fertiliser at a time which will promote maximum nutrient uptake by the crop; and(g) where there is a watercourse (including ditches), spring or borehole in the field uses suitable protective measures and details and maps of these must be prepared and retained. | <p>£150 if the applicant completes a NMP.
40% of actual costs up to £300 if an advisor completes a NMP.</p> |
|------------------------------------|---|---|

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(2) Where an advisor completes the NMP a receipted invoice with details of the activities carried out, the suppliers details and total cost must be provided to the Scottish Ministers.

Land in a nitrate vulnerable zone is not eligible.

4. Soil and water management programme

(1) A beneficiary is eligible for payment under this option if the beneficiary runs a farm business and—

- (a) produces a soil and water management plan (“a SWMP”) using the “Farm Soils Plan Protecting Soils and Income in Scotland” publication published by the Scottish Ministers^{M47} which must:

- (i) assess the risks to the soils from erosion, compaction, structural degradation, loss of organic matter and contamination on each field;
- (ii) identify measures designed to address these risks, including site specific measures which are not specified in any rural priorities options for each field;
- (iii) be updated annually and be available for inspection; and

For (1)(a), the following rates of payment apply, if a SWMP is carried out by a professional advisor, 50% of the cost up to a maximum payment of £300. If a SWMP is carried out by the beneficiary, or the farm has already been audited, a fixed sum of £150. For (1)(b), the following rate of payment applies, a proportion of costs up to a maximum of £30 per hectare per annum.

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- (b) where measures not specified in any rural priorities options are identified in the plan, carries out the measures over a period of 5 years.

5. Restructuring agricultural businesses

- of (1) A beneficiary is eligible for payment under this option if the beneficiary is an agricultural business and–
- Up to 40% of eligible costs (non Less Favoured Areas) and 50% (Less Favoured Areas) with a 10% premium for investments undertaken by young farmers.
- (a) produces a review of the business, detailing its strengths and weaknesses and options for change and identifies the expected improvements in performance of the business and shows that the proposed investments are part of a longer term process of improving viability and competitiveness;
 - (b) incurs costs for providing or upgrading buildings and associated structure, necessary equipment, infrastructure or information technology and associated fees where these investments–
 - (i) are an essential part of the restructuring or re orientation of the business; and
 - (ii) the restructuring will result in improvements in business

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viability,
environmental
management,
health and
safety and/or
animal health
and welfare.

- | | | | |
|--|----------------|--|--|
| <p>6. Manure/slurry and treatment</p> | <p>storage</p> | <p>(1) A beneficiary is eligible for payment under this option if the beneficiary undertakes either or both (a) or (b)–</p> <ul style="list-style-type: none"> (a) improvements in manure storage, handling and application facilities through one or more of the following– <ul style="list-style-type: none"> (i) new or enhanced slurry stores or manure storage; (ii) roofs for slurry stores; (iii) slurry separation equipment; (iv) equipment for slurry spreading that controls more efficiently the application of nutrients; (b) manure treatment with one or more of the following– <ul style="list-style-type: none"> (i) storage facilities for slurry and biogas; (ii) biogas structures, machinery and equipment; (iii) composting structures, | <p>Up to 40% of eligible costs (non Less Favoured Areas) and 50% (Less Favoured Areas) with a 10% premium for investments undertaken by young farmers.</p> |
|--|----------------|--|--|

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machinery and
equipment.

- (2) For (a) and (b) above—
- (i) the beneficiary must identify the expected improvements in performance of the business, as a result of the planned investment, against the following criteria; business viability, animal health and welfare, environmental management, or health and safety; and
 - (ii) manure and slurry must be stored to minimise the risk of water pollution and the beneficiary must comply with the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003 ^{M48}.

7. Establishment of short rotation coppice crops of willow or poplar
- (1) This is a capital payment with a 5 year commitment attached. 40% of eligible actual costs (non Less Favoured Areas) and 50% [^{F24}of eligible actual costs] (Less Favoured Area)
- (2) A beneficiary is eligible for payment under this option if the beneficiary— [^{F25}including the cost of fencing (for both non Less Favoured Areas and Less Favoured Areas)] up to a maximum [^{F26}payment of £1000] per hectare.
- (a) plants a minimum of 2 hectares with 10,000 willow or poplar cuttings per hectare;
 - (b) maintains the established trees for a period of at least 5 years;
 - (c) has established an end use for the produce; and
 - (d) has planted the trees in compliance with the UK Forestry Standard.

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- | | | |
|---|---|---|
| <p>8. Support for renewable energy – agriculture</p> | <p>(1) Eligible beneficiaries are agricultural land managers.</p> <p>(2) A beneficiary is eligible for payment under this option, for purchase and installation, construction, upgrading or development of infrastructure and/or equipment for small scale renewable energy capacity if the beneficiary–</p> <ul style="list-style-type: none"> (a) develops small scale renewable energy capacity that uses a range of renewable technologies where the investment will contribute to– <ul style="list-style-type: none"> (i) a reduction in carbon emission; (ii) helping towards developing a local, sustainable energy supply; (iii) improving business efficiency; and (b) produces documentation to demonstrate the renewable energy system was installed by a registered installer on the Department for Business and Regulatory Reform accredited list ^{M49} and provides the Scottish Ministers with a receipted invoice. | <p>Up to 50% of eligible costs in Less Favoured Areas (60% for young farmers).</p> <p>Up to 40% of eligible costs in non Less Favoured Areas (50% for young farmers).</p> |
| <p>9. Support for renewable energy – forestry</p> | <p>(1) Eligible beneficiaries are forestry land managers.</p> | <p>Up to 50% of eligible costs in Less Favoured Areas.</p> |

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(2) A beneficiary is eligible for payment under this option, for purchase and installation, construction, upgrading or development of infrastructure and/or equipment for small scale renewable energy capacity if the beneficiary–

(a) develops small scale renewable energy capacity that uses a range of renewable technologies where the investment will contribute to:

(i) a reduction in carbon emission;

(ii) helping towards developing a local, sustainable energy supply;

(iii) improving business efficiency; and

(b) produces documentation to demonstrate the renewable energy system was installed by a registered installer on the Department for Business and Regulatory Reform accredited list^{M50} and provides the Scottish Ministers with a receipted invoice.

10. Improving the economic value of forests

(1) A beneficiary is eligible for payment under this option if the beneficiary– Up to 50% of net actual costs identified and approved in the investment plan.

(a) has a forest holding of 30 hectares or greater which

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is managed in accordance with a Forest Plan approved by Forestry Commission Scotland;

- (b) produces an investment plan quantifying the estimated costs of investment operations and estimated income from produce; and
- (c) implements one or more of the eligible investment operations outlined in such plan and as listed below—
 - (i) early pruning to improve timber quality;
 - (ii) high pruning to improve timber quality;
 - (iii) pre commercial and non commercial thinning to improve average stem quality;
 - (iv) re spacing of natural regeneration where stem density exceeds 4,000 trees/ hectare;
 - (v) reducing deer numbers to minimise browsing and fraying damage which results in stem deformities or fungal rot so as to improve the

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conditions for
the production
of quality
timber; or

- (vi) controlling
grey squirrels
to prevent
bark stripping
damage
and enable
quality timber
production
from
broadleaved
woodland.

(2) Where independent certification of the forest holding has been undertaken, in accordance with the UK Woodland Assurance Standard (2nd Edition) ^{M51}, additional support will be given to associated costs of preparing and implementing a plan required by the certification body to close out Corrective Action Requests issued by such certification body.

**11. Processing
marketing**

and (1) Eligible beneficiaries In the Highlands and Islands are individual land managers, up to 50% of eligible costs. Up farmers and small rural to 40% elsewhere. businesses directly linked to on farm or near holding production units, groups of primary producers or companies involved in primary production, processing and marketing.

(2) Support is limited to micro enterprises and small and medium sized enterprises within the meaning of Commission Recommendation 2003/361/EC of 6th May 2003 concerning the definition of micro, small and medium sized enterprises ^{M52}except in the case

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of forestry where support is limited to micro enterprises.

(3) All primary sectors listed in Annex 1 to the Treaty except fishery products (and drinks where the primary inputs are covered by Annex 1 to the Treaty) are eligible as well as forestry products.

(4) A beneficiary is eligible for payment under this option if the beneficiary–

- (a) does any of the following–
 - (i) develops new or improves existing primary product processing facilities;
 - (ii) purchases plant and equipment including computer hardware and software and incurs directly related general costs including architects, engineers and consultants fees; or
 - (iii) undertakes a range of business development activities to support the food processing operation;
- (b) does not have separate accounts for farm business and processing; and

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(c) has a turnover of less than £150,000 for the processing business.

(5) General related costs including fees up to a combined maximum of 11% of total eligible costs and marketing costs up to a combined maximum cost of 11% of total eligible costs are eligible.

12. Co operation (non food and forest products) (1) Eligible beneficiaries are individuals, primary producers, groups of primary producers or companies. Up to 100% of eligible costs.

(2) Beneficiaries are eligible for payment if they co operate with other producers, suppliers or third parties and this may include developing one or more of the following–

- (a) innovative processing facilities;
- (b) new added value;
- (c) new markets for products.

(3) The new products, processes and technologies must not displace existing products or businesses within the Scottish land based sectors.

(4) The following costs are eligible–

- (a) non capital costs of resources to support co operation, collaboration, and development within the supply chain;
- (b) costs of developing innovative new products in a co operative way across 2 or more partners;

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- (c) support for market research to increase current market share, or aid market penetration for new products;
- (d) support for market development plans at a strategic level to support the sector;
- (e) aiding the organisation and development of the sector, with a view to facilitating a greater degree of vertical integration.

(5) The following costs are not eligible–

- (a) purchase of buildings intended for demolition or which have been used for the same purpose previously;
- (b) working capital;
- (c) harvesting equipment;
- (d) the company's own labour and equipment costs;
- (e) consumables such as paper and ink;
- (f) repair and maintenance costs;
- (g) office equipment and other furniture (specific telephone equipment, computers and software related to the development are eligible);
- (h) landscaping and ornamental work;
- (i) general costs including fees

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relating to planning,
building and works.

- 13. Provision and upgrading of infrastructure related to access to farm and forest land, energy supplies and water management**
- (1) A beneficiary is eligible for payment under this option if they are a land manager and if the beneficiary—
- Up to 50% of eligible costs in Less Favoured Areas (60% for young farmers).
Up to 40% of eligible costs in non Less Favoured Areas (50% for young farmers).
- (a) provides or upgrades infrastructure elements where it can be shown that—
 - (i) they are an essential part of the restructuring or re orientation of the business; and
 - (ii) the restructuring will result in improvements in access to farm or forest land, in the supply of energy or in water management;
 - (b) is compliant with existing European Community standards applicable to any new areas of activity undertaken as a result of investment concerned; and
 - (c) identifies in the application the expected improvements in performance of the business as a result of the planned investment, against the criteria of improved viability, increased market orientation, enhanced animal welfare or

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protection of the
water environment.

14. Treatment of run-off of nutrients and other pollutants
- (1) A beneficiary is eligible for payment under this option if the beneficiary is an agriculture or forestry manager and does either or both of the following—
- Up to 50% of eligible costs in Less Favoured Areas (60% for young farmers).
Up to 40% of eligible costs in non Less Favoured Areas (50% for young farmers).
- (a) plans to and constructs bio beds in accordance with recognised design principles in a SEPA endorsed design manual and does the following—
- (i) mixes and handles pesticides and wash down either directly over the bio bed or in an adjacent bunded concrete area which drains to the bio bed;
- (ii) registers any waste exemptions with SEPA;
- (iii) obtains an authorisation from SEPA under the Water Environment (Controlled Activities) (Scotland) Regulations 2005 ^{MS3} where liquid residue is disposed of to land; or
- (b) plans to and constructs and demonstrates that a constructed farm wetland—

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- (i) will be of environmental benefit; and
- (ii) will deal with pollutants by collecting, storing and treating lightly contaminated water from the steading.

- 15. Conversion to and maintenance of organic farming**
- (1) In this option “production unit” means land, other than a common grazing, farmed in Scotland by an applicant or a beneficiary which has been accepted by an organic certification body as viable for conversion to organic farming methods.
- (2) There are 5 elements to this option–
- A. Conversion of land to organic production
 - B. Conversion of land to organic production in phases
 - C. Maintenance of organic production
 - D. Maintenance of organic production of land converted to organic production in phases
 - E. Capital Items
- A. Conversion of land to organic production
- This is a minimum 5 year commitment.
- A beneficiary is eligible for payment under this option if the beneficiary–
- (a) converts land to organic production to gain full organic certification;
 - (b) gains full organic certification;
- As set out in Table A in Part 2 of the Schedule or a minimum of £500 per annum per holding per management option – conversion (any one of, or a combination of, elements A and B) or maintenance (any one of, or combination of, elements C and D) irrespective of the land area at the rates set out in Table A in Part 2 of this Schedule.

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- (c) maintains that certification with [^{F27}a control body] for the remainder of the relevant period of the undertaking and submits confirmation of such certification to the Scottish Ministers;
- (d) continues to farm the land in accordance with Council Regulation [^{F28}834/2007] and the Organic Standards Compendium throughout the relevant period of the undertaking;
- (e) submits an organic viability proposal with the application;
- (f) begins organic conversion of the land either—
 - (i) within 6 months of the date of approval of the application;
 - or
 - (ii) by the date of commencement of the undertaking, whichever date is later;
- (g) does not manage the land as formally in conversion or as fully organic before submitting an application for aid;
- (h) submits confirmation to the Scottish Ministers

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from [^{F27}a control body] that organic conversion has begun by the dates specified in (f) above;

- (i) ensures that where land is to be registered with a different [^{F29}control body], such registration must be completed before registration of the land ends with the existing [^{F29}control body];
- (j) where the beneficiary has responsibility for organic production on other land which is already fully organic at the date of the application, maintains that certification for the relevant period of the undertaking or, where shorter, the period of such responsibility; and
- (j) where land is vegetable and fruit land, produces vegetables or fruit for a minimum of one year in any of years 3 to 5 of the relevant period of the undertaking.

B. Conversion of land to organic production in phases

A beneficiary may undertake to convert land under element A to organic production to gain full organic certification in phases and in such circumstances the

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commitment may extend to a maximum of 9 years. A beneficiary is eligible for payment to convert land in phases if the beneficiary—

- (a) meets the eligibility obligations and requirements specified under (a) to (k) in element A above for the whole production unit or common grazing that the undertaking refers to;
- (b) divides the land into no more than 5 areas of land with each area of land deemed to be a separate production unit or common grazing;
- (c) specifies each area of land and nominates in the application for aid the order in which these areas of land will be converted to organic production;
- (d) agrees the relevant period of the undertaking for each particular area of land to be converted to organic production in phases with the Scottish Ministers; and
- (e) starts conversion of the last area of the land to be converted to organic production no later than 5 years from the start of the relevant period of the undertaking relating to the first

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area of land to be
so converted.

For both elements A and
B above—

- (a) land is eligible if—
 - (i) the land is a production unit, or if the applicant is a grazings committee, a common grazing which has been accepted by [^{F30}a control body] as viable for conversion to organic production;
 - (ii) the land is any of the following:—
 - (aa) arable land;
 - (bb) improved grassland;
 - (cc) rough grazing or unimproved grassland;
 - (dd) vegetable and fruit land;
 - (iii) the land extends to not less than one hectare; and
 - (iv) it is land which has not been formally in conversion or fully organic at any time during the period from 1st January 2000 until the date of submission of the application for aid; and

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- (b) payments of aid for conversion shall be made in respect of a maximum of 1000 hectares per holding or common grazing and within this maximum payments in relation to 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.

C. Maintenance of Organic Production

This is a minimum 5 year commitment.

A beneficiary is eligible for payment for the maintenance of organic production if the beneficiary–

- (a) submits to the Scottish Ministers evidence of full organic certification for the land included in the application;
- (b) continues to farm the land in accordance with Council Regulation [^{F31}834/2007] and the Organic Standards Compendium throughout the relevant period of the undertaking;
- (c) ensures that where land is to be registered with a different [^{F31}control body], such registration

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- must be completed before registration of the land ends with the existing [^{F31}control body];
- (d) maintains full organic certification throughout the relevant period of the undertaking and submits confirmation of such certification to the Scottish Ministers; and
 - (e) where land is vegetable and fruit land, produces vegetables or fruit for a minimum of 2 years during the relevant period of the undertaking.

D. Maintenance of land converted to organic production in phases

Where a beneficiary has undertaken to convert land to organic production to gain full organic certification in phases under element B above, the beneficiary may undertake to phase in the maintenance of full organic certification of land converted to organic production and in such circumstances the commitment may extend to a maximum of 9 years. A beneficiary is eligible for payment to phase in the maintenance of full organic certification of land if—

- (a) the beneficiary meets the eligibility obligations and requirements specified under (a) to (e) above for

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- the whole organic production unit or common grazing that the undertaking refers to;
- (b) the conversion of the land to organic production has been phased in either under these Regulations, the 2004 Regulations or the 1994 Regulations and the last area of land to be converted has not been converted;
- (c) in the application for aid, the beneficiary identifies the areas of land which have been and are being converted to organic production in phases and identifies the order in which these areas of land will start to be maintained which shall be the same order as the order in which the areas of land were converted to organic production and each area of land is deemed to be a separate organic production unit or common grazing;
- (d) the beneficiary agrees the relevant period of the undertaking with the Scottish Ministers for the maintenance of each particular area of land;

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- (e) the beneficiary maintains full organic certification of the converted land as and when phased in for the relevant period of the undertaking.

For both elements C and D above—

- (a) land is eligible if—
 - (i) the land is an organic production unit, or if the applicant is a grazings committee, a common grazings which is fully organic;
 - (ii) the land extends to not less than one hectare;
 - (iii) the land is any of the following:—
 - (aa) arable land;
 - (bb) improved grassland;
 - (cc) rough grazing or unimproved grassland;
 - (dd) vegetable and fruit land; and
 - (iv) either—
 - (aa) no aid is payable under these Regulations, the 2004 Regulations or the 1994 Regulations in respect of the land; or
 - (bb) aid is payable under an undertaking

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under these Regulations, the 2004 Regulations or the 1994 Regulations in respect of the land but the undertaking has ended or will have ended before the commencement of the relevant period of the undertaking under element C or D above; and

- (b) payments of aid for maintenance shall be made in respect of a maximum of 1000 hectares per holding or common grazing and within this maximum payments in relation to 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.

Where land has been converted to organic production in phases under element B above or under the 2004 Regulations or the 1994 Regulations, an undertaking for the land can be entered into under element D above but payments for each area of

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land can only commence once the relevant period of the undertaking for the conversion to organic production for that area of land has ended.

E. Capital Items

A beneficiary is eligible for payment for capital items if the beneficiary—

- (a) converts land to organic production to gain full organic certification under either element A or B above;
- (b) meets the eligibility obligations and requirements specified under (a) to (k) under element A above for the whole production unit or common grazing;
- (c) carries out any of the capital items specified in column 1 of Schedule 3 in accordance with the requirements outlined in the programme guidance; and
- (d) completes the capital item within 2 years of the start of the conversion of the land to organic production and where conversion is undertaken in phases, within 2 years of the start of the conversion of each particular area of phased in land.

16. Wild bird seed mix/ unharvested crop (1) This is a 5 year £391.26 per hectare per year. commitment.

(2) A beneficiary is eligible for payment under this option if the beneficiary either—

- (a) spring sows a mixture of annual crops, including at least one cereal which will provide seed for the targeted

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species and does not plough down until after 15th March the following year; or

- (b) [^{F32}spring] sows a mixture of at least 2 crops, one of which must seed in the first year and one in the second and ploughs in after 15th March following last seeding year.

(3) For both options (a) and (b) above—

- (i) plots must be on arable or improved grassland and a maximum of 2 hectares in size;
- (ii) pesticides may be applied where necessary to aid establishment of the crop, otherwise no application of pesticides is permitted.

(4) In Corn Bunting areas (East Scotland, Uists and Borders) either one-year cereal-based mixes must be established or, where 2 year mixes are sown, at least 2 plots must be established in alternate years.

17. Management of mown grassland for wildlife

(1) This is a 5 year £174.88 per hectare per year commitment.

(2) A beneficiary is eligible for payment under this option on a grassland field on which an extensive crop of hay or silage will be grown if the beneficiary—

- (a) does not roll, harrow or graze the field from 1st April until 30th June inclusive or until the crop has been secured,

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whichever is the later;

- (b) mows the field but neither mowing nor the reintroduction of grazing may take place before 1st July or the end of the exclusion period, whichever is later;
- (c) cuts the hay and silage in a wildlife friendly manner in accordance with the programme guidance;
- (d) does not apply artificial fertilizer before 15th May, or 1st June where later ground-nesting birds and young may be found;
- (e) after mowing, leaves uncut a strip of grass 2 metres wide around the field boundary and herbicides may be applied to this strip only with the prior written agreement of the Scottish Ministers;
- (f) does not apply pesticides to the 2 metre strip; and
- (g) [^{F33}(where this could result in a negative impact on the target species)] ensures little or no tree cover around fields.

(3) Beneficiaries need not manage the same field each year, but must give details of the different fields and their locations and their areas in the application for aid. If during

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the lifetime of the undertaking a different rotation to that originally approved is agreed with the Scottish Ministers, the area upon which the annual management payment is calculated will be restricted to either the originally approved area or the revised area, whichever is smaller.

(4) Fields in the first year in which spring sown grass is being established are ineligible.

(5) Fields receiving substantial applications of fertiliser or slurry are ineligible.

18. Management of mown grassland for corn buntings (1) This is a 5 year £224.48 per hectare per year commitment.

(2) A beneficiary is eligible for payment under this option on fields used for growing a hay or silage crop within the breeding distribution of Corn Buntings in East Scotland, Uists and Borders if the beneficiary–

- (a) excludes stock from hay or silage fields from 1st May;
- (b) does not roll, harrow or graze fields from 1st May until after the field has been mown and where ground nests are present before 1st May, they must be marked and avoided;
- (c) mows fields but mowing must be delayed until after 1st August;
- (d) cuts hay and silage in a wildlife friendly manner in accordance with

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the programme
guidance;

(e) leaves uncut a strip
of grass 2 metres
wide around the field
boundary; and

(f) does not apply
pesticides to the 2
metre strip.

**19. Management of mown
grassland for corncrakes**

(1) This is a 5 year
commitment.

Option 1 – £271 per hectare
per year.

Option 2 £381 per hectare per
year.

Option 3 £691 per hectare per
year.

(2) A beneficiary is eligible
for payment under this option
on a grassland field on which
an extensive crop of hay or
silage will be grown if they
are a land manager on the
Argyll Islands, Skye, Small
Isles, Western Isles, Orkney and
parts of the North Sutherland
and the West Argyll coast that
support Corncrake populations
and if they–

(a) carry out this option
in combination with
one of the following
rural priorities
options, which must
be undertaken on
directly adjacent
land–

(i) Management
of early and
late cover for
corncrakes;

(ii) Creation and
management
of early and
late cover for
corncrakes;

(iii) Management
of grazed
grasslands for
corncrakes; or

(iv) Wild bird
seed mix/
unharvested
crop;

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- (b) exclude livestock from hay or silage fields from 15th May;
- (c) do not roll, harrow or graze the field from 15th May until after it has been mown and where ground nests are present before 15th May, they must be marked and avoided;
- (d) mow these fields but mowing must be delayed until after either—
 - 1st August; in which case the rate of payment for Option 1 in column 3 applies;
 - 15th August; in which case the rate of payment for Option 2 in column 3 applies;
 - 1st September in which case the rate of payment for Option 3 in column 3 applies;
- (e) cut the hay and silage in a wildlife friendly manner in accordance with programme guidance;
- (f) leave a strip of uncut grass 2 metres wide around the field boundary; and
- (g) do not apply pesticides to the 2 metre strip.

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(3) The same field need not be managed each year if hay or silage production is rotated around grassland area. Details of the fields to be rotated in this way, their location and areas must be given in the application for aid. If, during the lifetime of the undertaking, a different rotation to that originally agreed is approved, the area upon which the annual management payment is calculated will be restricted to either the area originally approved or the revised area, whichever is smaller.

20. Management of grazed grassland for corncrakes

(1) This is a 5 year £313 per hectare per year commitment.

(2) A beneficiary is eligible for payment under this option if the beneficiary is a land manager on the Argyll Islands, Skye, Small Isles, Western Isles, Orkney and parts of the North Sutherland and West Argyll coast that support Corncrake populations and—

- (a) removes all livestock before 1st March;
- (b) manages an area of at least 0.5 hectares, at least 30% of which must comprise vegetation likely to be taller than 20 cm by early May and suitable for Corncrakes if ungrazed;
- (c) does not return livestock before 16th July;
- (d) keeps livestock density below 1.4 livestock units per hectare until the end of August; and

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- (e) grazes the in bye land sufficiently in the autumn to prevent the sward becoming rank.

21. Creation and management of early and late cover for corncrakes (1) This is a 5 year £800 per hectare per year commitment.

(2) A beneficiary is eligible for payment under this option if the beneficiary is a land manager on the Argyll Islands, Skye, Small Isles, Western Isles, Orkney and parts of the North Sutherland and West Argyll coast that support Corncrake populations and—

- (a) carries out this option on land adjacent to land on which the “Management of mown grassland for corncrakes” option in this Schedule is being undertaken;
- (b) carries out the option on an area at least 0.15 hectares but not exceeding 1 hectare. The area must either be sheltered by man made or natural features or by creating a strip within the field, at least 5 metres wide, protected from grazing in late winter and spring;
- (c) creates early cover during autumn/ winter months using the following method—
 - (i) only with the prior written agreement of the legal occupier,

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digs up and
collects iris
from existing
beds, mixes the
iris rhizomes
with farmyard
manure in at
least equal
proportions
by volume
and spreads
the mixture
over the site
to a depth of
at least 20
centimetres;

- (d) does not graze from
1st March until
30th September
inclusive, except
with the prior written
agreement of the
Scottish Ministers;
- (e) at other times,
grazes at a level
not exceeding 0.3
livestock units per
hectare, except with
the prior written
agreement of the
Scottish Ministers;
and
- (f) cuts the area only
with the prior written
agreement of the
Scottish Ministers.

(3) The combined area
of existing and created early
and late cover for Corncrakes
managed under an undertaking
must not exceed 6 hectares.

(4) The site must be
improved grassland or arable
land managed to ensure that it
is normally in damp condition
for the establishment of iris
beds and other tall vegetation.
Where iris is not available
locally, other appropriate tall
vegetation may

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be used, but only with the prior written agreement of the Scottish Ministers.

22. Management of early and late cover for corncrakes (1) This is a 5 year £162 per hectare per year commitment.

(2) A beneficiary is eligible for payment under this option if the beneficiary is a land manager on the Argyll Islands, Skye, Small Isles, Western Isles, Orkney and parts of the North Sutherland and West Argyll coast that support Corncrake populations and the land is either reverted improved grassland or unimproved in bye grassland with clumps of suitable tall vegetation and the beneficiary–

- (a) carries out this option on one or more blocks of land adjacent to land on which the “Management of mown grassland for corncrakes” option in this Schedule is being undertaken;
- (b) ensures each individual area of early and late cover is at least 0.15 hectare but no more than 1 hectare, with a maximum total area of 5 hectares. The beneficiary may create an additional 1 hectare of early and late cover under the “Creation and management of early and late cover for corncrakes” option in this Schedule;
- (c) does not graze from 1st March until 30th September

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inclusive, except
with the prior written
agreement of the
Scottish Ministers;

- (d) at other times,
grazes at a level
not exceeding 0.3
livestock units per
hectare, except with
the prior written
agreement of the
Scottish Ministers;
and
- (e) cuts the area only
with the prior written
agreement of the
Scottish Ministers.

**23. Management of open (1) This is a 5 year £111 per hectare per year.
grazed or wet grassland for commitment.
wildlife**

(2) A beneficiary is eligible
for payment under this option
on in bye grassland if the
beneficiary—
either—

- (a) agrees a grazing plan
with Scottish Ministers
that describes a livestock
management and grazing
regime, taking into
account the preferences
of individual target
species, site conditions
and farming operations;
or
- (b) (i) excludes farm
livestock for 6
consecutive weeks
between 15th
March and 15th
June inclusive or
restricts numbers
to a maximum of
1 livestock unit
per hectare during
the whole 3 month
period;
(ii) ensures the
intensity of grazing
is sufficiently low

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during the 3 month period so that the nests of ground nesting birds are not damaged;

- (iii) does not harrow or roll from 1st April until 31st July inclusive;
- (iv) does not apply artificial fertiliser to the site before 15th May and does not apply farmyard manure and slurry from 1st March until 15th May inclusive;
- (v) does not apply pesticides to the site; and
- (vi) does not top until after 31st July.

<p>24. Mammal and bird control</p>	<p>(1) This is a 5 year commitment.</p> <p>(2) There are three elements to this option—</p> <ul style="list-style-type: none"> A. Predator control B. Crow control C. Predator control for black grouse and capercaillie <p>with corresponding rates of payment in column 3.</p> <p>(3) A beneficiary is eligible for payment under—</p> <ul style="list-style-type: none"> A. Predator control on SSSI sites and European sites where there are ground nesting birds that are vulnerable to predation as endorsed by SNH; B Crow control on SSSI sites and European sites where there are birds that are vulnerable to crow predation and likely to 	<p>A. £2 per hectare.</p> <p>B. £270 per year.£270 per trap per year with no more than 1 trap per hectare.</p> <p>C. Actual costs up to £7.50 per hectare per year.</p> <p>Rates of payment correspond to the 3 elements in column 2.</p>
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benefit from crow control
as endorsed by SNH; and
C Predator control
for black grouse and
capercaillie on sites
containing active leks
or on adjoining sites
where control would be
complementary;

if the beneficiary—

- (a) carries out mammal
and bird control in
a legal and humane
manner and complies
with the Open General
Licence as issued each
year by the Scottish
Ministers and the British
Association for Shooting
and Conservation
(BASC) Codes of
Practice on Shooting,
Lamping, Trapping
of Pest Mammals and
Trapping of Pest Birds

M54

either—

- (i) as part of a habitat
management programme
aimed at achieving
favourable condition
of the natural heritage
interests on the site.
Effort must be targeted
where it will give most
benefit to the notified
features rather than being
focused on agricultural
benefits; or
 - (ii) as part of a Capercaillie
or Black Grouse
conservation plan that
includes a site-specific
predator/crow control
plan targeted where it
will give most benefit to
the species;
- (b) ensures, for elements A
and C that the habitat
management programme
includes details of
the predator control

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programme which should set out–

- (i) the areas where control will be undertaken;
- (ii) the species to be controlled;
- (iii) the methods that will be used;
- (iv) the most appropriate period for the activity within the targeted spring/early summer period (control outwith this period will not be funded);
- (v) a summary of any other predator control effort in the remainder of the year;
- (vi) the number of days and nights that the activity will be undertaken in each month;
- (vii) plans, for those activities that are planned on a weekly basis, such as lamping or shooting, which must be kept up to date throughout the control period and available for inspection on request. Dates when other activities will take place such as setting and managing snares, must be included in the management programme;
- (viii) the impact that the mammal and bird control will have, looking for reductions

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- in numbers of
fox scats and
prey remains
and increases
in numbers of
breeding birds;
- (ix) a description of any
predator control
effort in the past
5 years and a
description of the
existing predation
problem as it
affects breeding
birds,
- (c) ensures for element
B that the habitat
management programme
details the proposed trap
locations on a map;
- (d) ensures for elements B
and C that crow traps
will be operated within
the requirements of the
BASC Code of Practice
on the Trapping of Pest
Birds in particular–
 - (i) traps will be of a
legal design and
operated legally;
 - (ii) the beneficiary will
provide all decoy
birds with shelter,
food and water at
all times;
 - (iii) the beneficiary
must have enough
staff to inspect
traps every day;
 - (iv) captured crows
must be killed
quickly and
humanely; and
 - (v) all non target
species will
be released
immediately and
unharmd;
- (e) for elements A, B and C
above an annual report
must be provided which
must include–

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- (i) details of the methods employed;
 - (ii) time spent on mammal and bird control across the specified period;
 - (iii) number and species controlled and date of control;
 - (iv) location of effort – where traps are located and where other methods are applied;
 - (v) the impact of the mammal and bird control, in terms of numbers taken, counts of fox scats and crows and numbers of nesting birds; and
 - (vi) records of the above must be kept up to date throughout the period that control is undertaken and they must be available for inspection on request;
- (f) for elements A and C above a summary of any other predator control effort carried out in the remainder of the year must be provided.

25. Supplementary provision for raptors

food

(1) This is a 5 year commitment.

A: £1,076 per nest per year.
B: £32 per carcass.

(2) There are 2 elements to this option–

- A. Supplementary food provision for Hen Harriers
- B. Provision of deer carcasses for Golden Eagles

with corresponding rates of payment in column 3.

Rates of payment correspond to the 2 elements in column 2.

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(3) For element A above, a beneficiary is eligible for payment under this option if the Moorland Management Plan identifies a conflict between Grouse moor management and Hen Harriers' predation of Grouse chicks and if the beneficiary—

- (a) is a land manager within an SPA or potential SPA with breeding hen harriers;
- (b) agrees with SNH the number and location of hen harrier nests for which food will be provided;
- (c) checks feeding posts and provides food in the nesting area on a daily basis, in accordance with the practice described in “Substitute Feeding of Hen Harriers on Grouse Moors” (Moorland Working Group 1999) ^{M55};
- (d) carries out feeding for 100 days, covering both the pre-nesting period as well as the breeding season. If a nest should fail within the 100 day period, then feeding must cease subject to agreement by SNH and payments will be reduced accordingly;
- (e) agrees the start date with SNH for feeding at each site; (the start date being the date that birds arrive on territory);

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- (f) purchases appropriate food and ensures that it is appropriately stored and retains purchase receipts for inspection;
- (g) records the work undertaken using the recording forms provided by SNH and identifies on a map the sites where feeding has taken place.

(4) For element B–A beneficiary is eligible for payment under this option if the beneficiary–

- (a) is a land manager within a Golden Eagle SPA or potential SPA where SNH considers it will benefit the Golden Eagle population;
- (b) draws up a plan and agrees it with the Scottish Ministers or SNH, outlining the number of deer carcasses to be left on the hill each month (either one or 2 per month) for 4 months (November February) and how and where carcasses will be left;
- (c) undertakes this work in conjunction with existing annual hind culls and in accordance with best practice and all relevant legislation and does not use this as an incentive to

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cull additional deer;
and

- (d) keeps a record of work undertaken, giving the dates and showing where carcasses were left and retains these records for inspection.

26. Wardening for Golden Eagles (1) This is a 5 year £55 per farm unit per year. £82 per common grazings committee per year.

(2) A beneficiary is eligible for payment under this option if the beneficiary—

- (a) is a land manager within a Golden Eagle SPA or potential SPA; where SNH considers that it will benefit the Golden Eagle population—
- (b) records observations of Golden Eagles on a regular basis throughout the year on an annual record sheet and submits this with claims for payment;
- (c) where a nest is present on the beneficiary's land, participates in a network of contacts working in co operation to help prevent Golden Eagle persecution, including egg theft, in accordance with information and guidance provided to land managers by SNH; and
- (d) co operates with any accredited eagle

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workers visiting their land for survey or monitoring purposes.

- 27. Control of invasive non-native species**
- (1) This is a 5 year commitment. For Japanese knotweed, giant hogweed, Himalayan balsam, £160 per hectare per annum.
- (2) There are 2 elements to this option:–
 A named invasive non native plant control; and
 B grey squirrel control with corresponding rates of payment in column 3.
 For the control of grey squirrels for red squirrel conservation using a single capture trap, £185 per trap site per annum.
 For the control of grey squirrels for the protection of identified stands of high biodiversity value broadleaf woodland using multi-capture traps, £111 per trap per annum.
 Rhododendron payments are capital items and the item and payment rates are set out in Schedule 3.
- (3) For element A a beneficiary is eligible for payment under this option for named invasive non native plant control if the beneficiary is a land manager and–
- (a) is within the specific targeted area where the plant species have been identified as a particular threat by SNH, SEPA or the Forestry Commission Scotland. Within these areas applications must be part of a collaborative area project/plan. Applications must either complement an existing plan or be part of a new co ordinated plan/ project within an area, catchment wide or other self contained area/ habitat;
- (b) requires funding in order to undertake work where action is consequential on another option in

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this schedule. When action is required to control the named invasive non-native plant species for another option in this schedule to succeed; or

- (c) is the first land manager in the area to have their land colonised by one of the named invasive non native plant species.

(4) For element A, for Japanese knotweed, giant hogweed and Himalayan balsam the beneficiary must provide the following evidence:

- (a) with the application for aid, on a 1:10,000 OS map, in the first year, map the current distribution of the plant species being treated before control work starts and each year thereafter, map the affected area following control work;
- (b) keep a work programme that contains–
 - (i) spraying records and evidence of agreement from appropriate statutory bodies to spraying regimes around water courses or protected areas;

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- (ii) evidence of regrowth monitoring;
 - (iii) disposal transportation records and copies of Waste Transfer documentation;
 - (iv) approval from SEPA for any spoil sites;
 - (v) copies of the risk assessment carried out according to the requirements of the Control of Substances Hazardous to Health Regulations 2002 ^{M56}; and
 - (vi) copies of certificates of spraying for individuals undertaking work or directly supervising spraying.
- (c) if spraying is to be undertaken near a watercourse, obtain SEPA agreement to the operation prior to any spraying. If spraying is proposed on or near a designated area, the beneficiary must obtain SNH agreement to the operation prior to any spraying. Written evidence of the SNH and SEPA agreement must be provided; and

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- (d) start the control work in the first year of the undertaking. At the end of year 5 there must be no Japanese knotweed, giant hogweed or Himalayan balsam, as appropriate, present on the treated area.

(5) For Japanese Knotweed under element A control measures must kill the plant. Cutting, flail mowing or strimming must not be undertaken.

Eradication must be by one or more of the following–

- (i) chemical control – spray with a herbicide only in the growing season when green leafy material is present. The herbicide must be an approved Glyphosate based herbicide and must be used according to the Code of Practice for Using Plant Protection Products in Scotland published by the Scottish Ministers ^{M57} and the label instructions. There must be a minimum of 2 sprays in each growing season, further spraying is allowed if necessary. The plant must be monitored regularly for signs of regrowth during the period of the undertaking, and any regrowth must be resprayed. Glyphosate must not be applied until early/mid May or when the plant is 0.5 1.5m tall. Both the top and underside of the leaves must be sprayed;

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- (ii) digging – the beneficiary must consult SEPA before undertaking this method. Above ground leaf and stem material must be cleared. All ground material including all roots, fibre, soil and earth containing any roots/fibre must be removed. The soil around the plant for up to 7 metres must be removed off site. Any plant regrowth during the period of the undertaking must be sprayed with herbicide as detailed in the chemical control method;
- (iii) disposal – Japanese knotweed must not be composted. Infested material must be removed from the site for disposal, unless otherwise agreed by SEPA. Japanese knotweed infested soil and plant material to be discarded as “controlled waste” as defined under the Environmental Protection Act 1990^{M58} and the Controlled Waste Regulations 1992^{M59} and must be removed from site for disposal by a SEPA licensed haulier to a licensed or permitted landfill site and must be accompanied by appropriate Waste Transfer documentation prepared by the licensed haulier. All containers and bags contained infested material must be covered to avoid spread along public roads.

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(6) For element A, for Giant Hogweed control measures must reduce or kill the plant, prevent flowering and seed dispersal. Strimming must not be undertaken.

A risk assessment must always be carried out prior to commencing work and records of this must be kept according to the requirements of the Control of Substances Hazardous to Health Regulations 2002 ^{M60} requirements.

Eradication must be by one or more of the following–

- (i) chemical control – spray with a herbicide only during the growing season when green leafy material is present. The herbicide must be an approved Glyphosate based herbicide and must be used according to the Code of Practice for Using Plant Protection Products in Scotland, published by the Scottish Ministers ^{M61} and the label instructions. There must be a minimum of 2 sprays in each growing season. Glyphosate must be applied before the plant flowers and sets seed. It should not be applied until the plants are 0.5 metres – 1.5 metres tall. Both the top and underside of the leaves must be sprayed. Plants must be monitored for signs of regrowth during the period of the undertaking. Regrowth must be sprayed when the plant/seedlings reach 0.5 metres tall;
- (ii) cutting/mowing –this must only be undertaken following consideration

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- of the risk assessment results;
- (iii) digging out – SEPA must be consulted before this method can be undertaken. Above ground leaf and stem material must be removed. All ground material including any roots, fibre, soil and earth containing any roots/fibres must be removed. The soil around the plant for a diameter of 4 metres around the plant must be removed. The crown must be dug out below ground, roots must be cut all the way through by hand, a minimum of 3.8 centimetres below ground. Any plant regrowth during the period of the undertaking must be sprayed with herbicide as detailed in the chemical control method;
 - (iv) disposal Giant hogweed must not be composted. Infested material must be removed from the site for disposal, unless otherwise agreed by SEPA. Giant hogweed infested soil and plant material must be discarded as “controlled waste” as defined under the Environmental Protection Act 1990^{M62} and the Controlled Waste Regulations 1992^{M63} and must be removed from site for disposal by a SEPA licensed haulier to a licensed or permitted landfill site and must be accompanied by appropriate Waste Transfer documentation

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prepared by the licensed haulier. All containers and bags must be covered to avoid spread along public highways.

(7) For element A, for Himalayan Balsam, control measures must reduce or kill the plant, prevent flowering and seed dispersal.

Eradication must be by one or more of the following.

- (i) chemical control – spray with a herbicide only in the growing season when there is green leafy material present. The herbicide must be an approved Glyphosate based herbicide and must be used according to the Code of Practice for Using Plant Protection Products in Scotland published by the Scottish Ministers ^{M64}, and the label instructions. There must be a minimum of one spray during the growing season before the plant flowers and sets seed. Spot spraying must be undertaken unless the plants grow in a dense sward. Plants must be monitored for signs of regrowth during the period of the undertaking and further spraying must be undertaken to kill seedlings when the seedlings/plants are visible;
- (ii) cutting/mowing – must only be undertaken before the plant reaches the flowering stage. Cut at ground level using a scythe. Cutting must be repeated annually throughout the period of

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- the undertaking until no more growth occurs;
- (iii) pulling any germinating seeds must be pulled up. The roots must be pulled up with the plant;
- (iv) grazing – grazing by cattle and sheep is effective from April throughout the growing season and must be continued until no new growth occurs;
- (v) disposal – Himalayan balsam plants must only be composted or burnt when no seeds are present. Following eradication, beneficiaries must ensure soil which may contain Himalayan balsam seeds is not used until the year following the year where no new seedlings appeared.

(8) For Rhododendron under element A the beneficiary must–

- (a) with the application, submit a 1:10,000 OS map, showing the current outlying area affected by Rhododendron proposed for treatment before control work starts, and highlight the area proposed for treatment;
- (b) provide evidence that they have followed the guidance in the Forestry Code of Practice Guide Managing and controlling invasive rhododendron published by the Forestry Commission ^{M65};

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- (c) if spraying is to be undertaken near a watercourse, obtain SEPA's agreement to the operation prior to any spraying. If spraying is proposed on or near a designated area, the beneficiary must have obtained SNH agreement to the operation prior to any spraying.
- (d) begin control work in the first year of the undertaking. At the end of year 5 there must be no Rhododendron present on the treated area.

Eradication must be by one or more of the following–

- (i) manual eradication – this method must be used on sensitive sites and/or where mechanised clearance methods are not possible. Plants must be cut low to the ground. Subsequent operations must ensure that no regrowth results from flailed stools, this includes manual clearance and the use of herbicide treatments;
- (ii) mechanised and/or chemical control – these methods may include the use of flails fitted on machinery and/or herbicide treatment on re-growth. A second application of herbicide must be applied when required;
- (ii) chemical control of standing Rhododendron – this may include the use of stem

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injection of herbicide to kill off established Rhododendron bushes. Follow up applications of herbicide or hand pulling of seedlings must be undertaken to ensure there are no successful seedling or sprouting bushes on site.

(9) For element B a beneficiary is eligible for payment under this option for grey squirrel control if the beneficiary is a land manager and their land is—

- (a) within one of the control areas defined under the Red Squirrel Action Plan 2006 2011 published by SNH ^{M66}, and there is evidence of grey squirrels on their land; or
- (b) has a stand of broadleaf woodland identified by Forestry Commission Scotland as being part of a UK Biodiversity Action Plan Priority Habitat ^{M67} or high biodiversity value, being mixed broadleaved woodland in a designed landscape.

(10) For grey squirrel control—

- (a) SNH or Forestry Commission Scotland must agree that the application for aid is valid by consideration of current grey squirrel

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- levels, current damage levels and current risk to the red squirrel population;
- (b) the beneficiary must with the application include, a work programme. The work programme must meet the objectives and priority actions in the Red Squirrel Action Plan, 2006 2011 published by SNH. The work programme must identify by grid reference the location of the woodland, the number of traps being deployed, the location of each trap and the dates between which traps will be set and details about any collaboration with neighbouring land owners or grey squirrel control officers authorised by SNH must be included;
- (c) keep a record of ongoing activity and regularly update it. Traps must be checked daily. A record of dates when animals were trapped and numbers of grey squirrels caught must be kept. Detailed sightings records of grey squirrels must be kept, including dates and locations. When no record of grey squirrel presence is

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obtained for existing activities, a transect survey as detailed in the Forestry Commission Practice Note 11 Practical Techniques for Surveying and Monitoring Squirrels ^{M68} will be required to verify the presence and extent of grey squirrels and any information must be submitted on a OS 1:10,000 map;

- (d) within areas of the south of Scotland as defined by SNH and the Forestry Commission Scotland submit, grey squirrels trapped in locations which contribute to the squirrel pox surveillance programme when requested by and under the supervision of the grey squirrel control officers authorised by SNH; and
- (e) submit maps, dates trapped and numbers caught and dispatched, and records of all samples sent for squirrelpox testing where relevant must be submitted with claims for payment; and
- (f) adhere to the following conditions in relation to the trapping method—
 - (i) live multi capture traps

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- must not be used where red squirrels are present;
- (ii) a minimum of 4 trapping sessions per year per trapping unit area must be carried out. If grey squirrels are present all year a minimum of 6 trapping sessions per year per trapping unit area must be carried out;
- (iii) live capture traps for protection of broadleaf stands must only be set between April and September; and
- (iv) any grey squirrels captured in traps must be humanely dispatched without delay.
- (g) comply with the guidance set out in Forestry Commission Practice Note 4 Controlling Grey Squirrel Damage to Woodlands, Forestry Commission Practice Note 5 Red Squirrel Conservation and the survey methods set out in the Forestry Commission Practice

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- (h) comply with the Pests Act 1954 M70;
- (i) keep evidence that all trapping is carried out in accordance with the requirements in (f) above and that all guidance specified in (g) above has been complied with and that the legislation specified in (h) has been complied with.

28. Management of species rich grassland

(1) This is a 5 year £111 per hectare per year. commitment.

(2) A beneficiary is eligible for payment under this option on species rich unimproved grassland if the beneficiary–

- (a) agrees a grazing plan with Scottish Ministers which sets out a livestock management and grazing regime, limiting grazing in order to promote the growth, structure and species composition of vegetation on the land. The plan must reflect the specific biodiversity requirements of the site and may be subject to change as the site develops;
- (b) manages grazing levels to create a sward at a range of heights, including some short grassland

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- and some dense tussocks;
- (c) ensures the sward is at its longest in the summer and shorter in the spring and autumn;
- (d) where grazing is impractical, cuts the grassland once between mid July and mid August to a height between 5 and 10 cm, and once again in the autumn or the following spring. Cuttings must be turned in the field in order to allow their seed to drop and then removed;
- (e) in areas where Corn Buntings breed, does not graze or mow from 16th April until 15th August inclusive and includes this requirement in the plan;
- (f) does not apply fertilisers, slurry, farmyard manure, pesticides or lime. However, spot treatment for injurious weeds will be allowed;
- (g) does not use the site for supplementary feeding.

29. Bracken management programme for habitat enhancement (1) This is a 5 year £28 per hectare per year. commitment.

(2) A beneficiary is eligible for payment under this option on land where the management of bracken will enhance an existing habitat of conservation

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value, prevent loss of habitat or benefit associated species and, if the beneficiary—

- (a) prepares and implements a systematic programme of treatment and follow up actions, as specified within a Bracken Management Plan (BMP) to be submitted with the application. The plan must describe the following, and, where directed, show on a 1:10,000 scale map—
 - (i) the habitat of conservation value that will benefit from the bracken management – in hectares and on the map;
 - (ii) the extent of the bracken and density of the bracken cover – in hectares and on the map;
 - (iii) the area of bracken to be actively managed – in hectares and on the map;
 - (iv) the type of management proposed (eradication or control or no interference) and treatments proposed to achieve this, including

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follow up
action;

(v) where bracken is
to be eradicated
or controlled, the
type of vegetation
expected to replace
it;

(vi) the locations of
any sensitive
areas and
appropriate
buffer zones,
including—

(aa) where
plant
or
animal
species
of
conservation
value
are
present
and
are
likely
to be
damaged
by the
control
method;

(bb) in
gullies
or
steep
slopes
where
regeneration
of
more
desirable
vegetation
will be
difficult
or
impossible
to
achieve
and
soil

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erosion
may
result;

(cc) close
to
ponds,
lochs
or
watercourses,
if
chemical
control
is
proposed;

(dd) where
there
is a
well
developed
woodland
flora,
under
the
bracken
canopy;
and

(ee) archaeological
features
which
might
be
damaged
by
mechanical
control;

(b) carries out primary
treatment of bracken,
where the need
for more intensive
initial control
methods has been
identified within the
bracken management
programme, in year 1
of a BMP;

(c) if chemical control
is proposed, obtains
consent from the
appropriate bodies
including SEPA,
the local water

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authority, SNH and the local authority environmental services; and

- (d) if mechanical eradication of bracken is proposed, carries out cutting or crushing 3 times per year, at appropriate stages during the growing season.

30. Creation and management of species rich grassland (1) This is a 5 year £223.57 per hectare per year commitment.

(2) A beneficiary is eligible for payment under this option on arable land or improved or semi improved grassland if the beneficiary–

- (a) creates a new grassland sward from arable or improved grassland by–
 - (i) destroying any existing grassland cover and carrying out a programme agreed with the Scottish Ministers to establish a new sward. This may include measures to reduce the fertility of the soil and address weed problems; and
 - (ii) sowing the site with a low productivity grass and herb mix agreed with Scottish Ministers to

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create a new
sward; or

- (b) restores an existing semi-improved grassland sward by—
 - (i) creating a short sward through cutting or grazing;
 - (ii) creating 50% bare ground on each sward by light mechanical disturbance such as raking, harrowing or scarifying; and
 - (iii) sowing a low productivity grass and herb mix agreed with Scottish Ministers on the bare patches.

(3) There must be at least 3 indicator species of potential for restoration on grasslands under this option—

For both (a) and (b) above—

- (i) A livestock management and grazing regime must be set out in a grazing plan to be agreed with Scottish Ministers; and
- (ii) seed of local origin must be used wherever possible;
- (iii) pesticides, fertiliser, slurry or farmyard manure must not be applied to the site. However spot treatment for injurious weeds will be allowed;
- (iv) supplementary feeding must not be carried out on the site.

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31. Management of habitat mosaics (1) This is a 5 year £104 per hectare per year commitment.

(2) A beneficiary is eligible for payment under this option on in by land where a mosaic of habitats occur if the beneficiary—

- (a) agrees a grazing plan with Scottish Ministers that describes the livestock management and grazing regime, identifies and reflects the specific biodiversity requirements of the site and identifies the biodiversity outcomes to be delivered. The application for aid must be supported by evidence to support the management proposed in the grazing plan. The grazing plan may be subject to change as the site develops;
- (b) does not apply fertilisers, slurry, farmyard manure, pesticides or lime. However, spot treatment for injurious weeds is permitted;
- (c) does not use the land for supplementary feeding. Where improved grass is present, feeding can take place on these areas provided there is benefit to the rest of the habitats in doing so. Details of any supplementary

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feeding must
be included and
justified in the
grazing plan.

32. Management of wetland (1) This is a 5 year £90 per hectare per year commitment.

(2) A beneficiary is eligible for payment under this option on wetland on in bye land including salt marsh and reed beds if the beneficiary–

- (a) agrees a livestock management and grazing plan with the Scottish Ministers. The plan must reflect the specific biodiversity requirements of the site and may be subject to change as the site develops. It must identify the type of wetland community and the area to be managed, the outcome that will be achieved and how it will be achieved;
- (b) does not apply pesticides or fertiliser including slurry or farmyard manure to the site;
- (c) includes a statement in the grazing plan outlining the method to control rank vegetation growth;
- (d) removes cuttings where it is practical to do so;
- (e) provides no supplementary feeding on the site;
- (f) provides hibernacula where management

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is for the great
crested newt;

- (g) creates a sward through grazing farm livestock with a range of heights across the wetland. The height of the sward at the end of the grazing period must range from 2 cm to up to 30 cm;
- (h) removes livestock from the site when poaching is likely to occur;
- (i) manages the build up of plant litter so that unless the area is a reed bed, rank growth and litter accumulation are not widespread;
- (j) manages the sward so that it is at its tallest during the summer, with short sedge swards extending to between 10 and 15 cm and fen sedge communities growing up to 50 cm. Reedbeds will be taller and often of a more uniform height;
- (k) aims for 30% of the vegetation to be in tussocks or patches over 50 cm in height. The vegetation should also include a mosaic of shorter and/or taller plant species;
- (l) enhances the management of drier rank areas by the addition of late summer cutting (in August

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and September)
followed by a period
of aftermath grazing
until the ground
becomes too wet for
grazing;

- (m) outlines the
necessary control
measures where
there may be a
problem with the
development of
woodland or scrub
on the wetland site;
and
- (n) provides evidence
to support the
management
proposed in the
grazing plan with the
application for aid.

33. Creation, restoration and management of wetland (1) This is a 5 year £226.17 per hectare per year. commitment.

(2) A beneficiary is eligible for payment under this option on arable land or improved grassland if the beneficiary manages the site to ensure that it is saturated with water for a significant proportion of the year by either–

- (a) agreeing a livestock management and grazing plan with the Scottish Ministers. This is mandatory for the management of saltmarsh. Such plan must reflect the specific biodiversity requirements of the site and may be subject to change over time. The plan will identify the area that will be managed, the outcome that will be achieved and how it will be achieved.

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The outcome may be achieved by adjusting the grazing or cutting regime; or

- (b) not grazing or mowing the site for a period of at least 3 consecutive months from 1st April until 31st July inclusive, after which rank growth should be controlled. On fertile sites, cutting and removal may be allowed between these dates, where practicable, but only with the prior written agreement of Scottish Ministers.

(3) For both (a) and (b) above, if rank vegetation builds up during the period of the undertaking, the grazing regime must be modified to address this. In addition, the beneficiary must—

- (i) not apply pesticides or fertiliser including slurry or farmyard manure to the site;
- (ii) not provide supplementary feeding on the site;
- (iii) provide hibernacula where management is for the great crested newt;
- (iv) ensure that the action to be taken to create the damp conditions will only affect the proposed site;
- (v) prevent the reversion to woodland or domination by a few aggressive species. If there is to be no grazing or

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mowing, the site may eventually become woodland. In such cases young trees must be removed.

- 34. Management/**
restoration of lowland raised
bogs
- (1) This is a 5 year £40 per hectare per year except where the beneficiary produces and implements a grazing management plan in which case – £83 per hectare per year.
- (2) A beneficiary is eligible for payment under this option on lowland raised bog if the beneficiary submits and implements a management plan which–
- (a) provides an audit of the current extent, condition and management of the bog and includes guidance on suitable grazing regimes and any additional work required to secure its maintenance and recovery, with bog conservation being the key management priority;
 - (b) keeps the peat and vegetation of the bog surface intact and undisturbed and as wet as possible;
 - (c) ensures that the following activities are not carried out–
 - (i) muirburn, unless specified in the management plan;
 - (ii) peat extraction;
 - (iii) cultivation;
 - (iv) the use of fertilisers, manures or herbicides;

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- (v) track creation, unless specified in the management plan;
 - (vi) tree planting;
 - (vii) dumping of any materials;
 - (viii) overgrazing; and
 - (ix) digging or clearing out ditches, unless specified in the management plan;
- (d) monitors the site each year to ensure peatland habitats are in good condition and submits an annual monitoring report with their claim for payment;
 - (e) where ditch blocking is carried out, inspects dams twice a year and carries out maintenance work to prevent leaking.

(3) The management plan may identify additional operations such as woodland clearance, seedling tree removal, scrub clearance and grazing management, however these operations need only be undertaken by the beneficiary where required on the individual site. If such operations are required then the beneficiary must do the following in each particular case—

- (a) woodland clearance beneficiaries will clear plantation and other woodland where it is affecting the hydrology of a raised bog and

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curbing its ability to support bog vegetation. Sites that support bog woodland; are ineligible;

- (b) seedling tree removal: beneficiaries will clear tree seedlings where they have the potential to significantly adversely affect the hydrology of a raised bog and its ability to support bog vegetation;
- (c) scrub clearance –remove scrub and prevent re-colonisation by herbicide treatment and/or the introduction of stock;
- (d) grazing management –continue to or introduce grazing to control the growth of heather and re-growth of scrub. Grazing must be removed if poaching is evident.

(4) In addition, a beneficiary is eligible to receive a supplement if the beneficiary produces and implements a grazing management plan that–

- (a) details the maintenance of cover and abundance of characteristic bog plants;
- (b) keeps any regeneration of birch in check by grazing;
- (c) stops grazing where poaching is evident;

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- (d) submits an annual record of grazing management including numbers and types of livestock and dates of livestock movements.

(5) If ditch blocking is carried out, dams should be inspected at least twice a year. The beneficiary must carry out any minor maintenance work to prevent the dams from leaking. Evidence of such monitoring and maintenance should be submitted with the claim for payment form.

(6) Where woodland clearance, seedling tree or scrub removal is carried out, the beneficiary should make an inspection of any tree seedling establishment, and/or tree and scrub re growth each summer. A report of this inspection shall be provided with the claim for payment form.

35. Creation and management of water margins and enhanced riparian buffer areas (1) This is a 5 year £286.63 per hectare per year commitment.

F34(2)

(3) A beneficiary is eligible for payment under this option on in-bye land where the water margin comprises land which borders still water or a watercourse with a bed width of at least 0.6 metres and—

- (a) for a site bordering still water, has a width of between 12 and 24 metres;
- (b) for a site bordering a watercourse with a bed width of less

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- than 1.2 metres, has a minimum overall width of 5 times the bed width of the watercourse and a maximum width of 12 metres; or
- (c) for a site bordering a watercourse with a bed width of at least 1.2 metres, has a width of between 6 and 12 metres on any one side;
 - (d) for sites with steep ground or existing semi-natural habitat, the water margin width may be extended to 20m.
- (4) A beneficiary must–
- (a) provide a management plan to describe the existing vegetation and outline their management objectives and how they will be achieved; and does one or both of (b) and (c)–
 - (b) enhance biodiversity interest by carrying out very occasional, light grazing to maintain a sward at a range of heights, avoids poaching the ground, and controls rank, tussocky growth and maintains close, even sward by grazing in late summer/early autumn to reduce the sward height to between 10 and 15 cm;

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- (c) reduce diffuse pollution by controlling rank, or tussocky growth to maintain a close, even sward, either by light grazing or by mowing to reduce the sward height to between 10 and 15 cm in late summer/early autumn. and removing cuttings from the site, or by agreeing an alternative management plan with Scottish Ministers where the particular conservation interest of the site would not be met by this approach.

For both (b) and (c) a beneficiary must—

- (i) control grazing to limit poaching and avoid damage to river and loch banks;
- (ii) ensure farm livestock have access to adjacent field whilst grazing the buffer area;
- (iii) not apply pesticides, lime or fertilisers, including slurry or farmyard manure;
- (iv) control injurious weeds, Giant Hogweed and Japanese Knotweed;
- (v) not cultivate the area;
- (vi) not clear existing drains or cut new drains;
- (vii) not modify or reinforce the river or loch banks;
- (viii) install water troughs or fence off an access point where farm livestock

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- are prevented from accessing traditional watering places by the water margin option. The access area must be separate from, and not part of, the buffer area;
- (ix) not provide supplementary feeding on the buffer area; and
- (x) use native species, of local origin where planting small trees to extend or enhance the habitat and avoid excess shading of the water.

36. Management of flood plains (1) This is a 5 year £39 per hectare per year commitment.

(2) A beneficiary is eligible for payment under this option on land that forms all or part of a flood plain that may flood without adversely affecting other agricultural land and if the beneficiary–

- (a) ensures that the natural flooding of the land is not hindered;
- (b) ensures that cultivations are not carried out within 12 metres of the water's edge (mean summer water level); and
- (c) agrees any additional management specific to the site with Scottish Ministers.

37. Management of buffer areas for fens and lowland raised bogs (1) This is a 5 year £267.90 per hectare per year commitment.

(2) Where this option is being carried out in a field

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which is in a nitrate vulnerable zone the margin/buffer must start after the 2m margin/buffer on which no fertiliser may be applied in accordance with the Nitrates Action Programme.

(3) A beneficiary is eligible for payment under this option, on improved in-bye (including areas of rush pasture) or arable land surrounding a fen or lowland raised bog if the beneficiary–

- (a) manages the fen or lowland raised bog area in accordance with the Management of Wetlands option or the Management/restoration of lowland raised bogs option – in this Schedule;
- (b) manages the surrounding area as a grass/semi-natural vegetation buffer. The external boundary of the buffer area must be at least 10 metres in width;
- (c) leaves existing semi-natural swards intact. If no sward exists at the time of agreeing the management, establishes buffer vegetation the first spring following the commencement of the undertaking by sowing a suitable mixture of native grass/sedge and wildflower seeds;
- (d) ensures field drains and culverts are broken and brought

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to the surface to reduce the direct flow of water, nutrients and chemicals into the wetland and encourage drainage water to flow across the established sward in the buffer;

- (e) does not apply pesticides, fertiliser, slurry or manure to the buffer area;
- (f) does not cultivate within the buffer area unless the existing use is arable; and
- (g) carries out scrub control only with the prior written agreement of the Scottish Ministers.

- 38. Management of coastal or serpentine heath**
- (1) This is a 5 year commitment. £77 per hectare per year up to 30 hectares. £44 per hectare per year for next 40 hectares. £1.30 per hectare per year thereafter.
 - (2) A beneficiary is eligible for payment under this option on unimproved land bordering the sea containing characteristic moorland dependent on salt spray or exposure, and serpentine heath and if the beneficiary either–
 - (a) carries out (i) to (vii) below–
 - (i) excludes farm livestock from the area from 1st April until 31st August inclusive;
 - (ii) grazes livestock on the site from 1st September until 30th November inclusive at

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- a level not exceeding 1.2 livestock units per hectare during this period;
- (iii) adjusts the grazing regime to ensure that tall grasses do not shade out the small broad leaved herbs;
- (iv) ensures that, if the site is grazed from 1st December until 31st March inclusive, grazing level does not exceed 0.15 livestock units per hectare during this period except with the prior written agreement of the Scottish Ministers;
- (v) ensures that the desired conservation benefits are delivered by varying any of the requirements set out in (i), (ii), (iii) or (iv) above in any year with the prior written agreement of the Scottish Ministers;
 - (vi) does not burn the site without the prior written agreement of the Scottish Ministers; and
 - (vii) does not apply fertiliser, slurry or farmyard

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manure to the site; or

- (b) where these requirements would not reflect the specific biodiversity requirements of the site, the beneficiary must set out in a grazing plan, to be agreed with the Scottish Ministers, a farm livestock management and grazing regime. The grazing plan may be subject to change as the site develops.

(3) A grazing plan is obligatory when management is for Scottish primrose.

39. Management of lowland heath

(1) This is a 5 year £123 per hectare per year commitment.

(2) A beneficiary is eligible for payment under this option on an area of lowland heath if the beneficiary–

- (a) agrees with the Scottish Ministers a farm livestock management and grazing regime set out in a grazing plan drawn up in consultation with a recognised conservation organisation;
- (b) excludes farm livestock from the area from 1st November to the end of February inclusive;
- (c) does not exceed grazing levels of 0.3 livestock units

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per hectare at other times;

- (d) does not allow bracken or scrub to exceed 20% cover of the total site area and where this occurs carries out ongoing management;
- (e) does not apply fertiliser, slurry or farmyard manure to the site.

40. Wildlife management on upland and peatland sites (1) This is a 5 year £0.70 per hectare per year. commitment.

(2) A beneficiary is eligible for payment under this option on sites that are dominated by peat or thin upland soils that are sensitive to erosion if the beneficiary–

- (a) prepares and implements a Moorland Management Plan (MMP) that takes account of both wildlife and farm livestock management and which provides–
 - (i) an audit of the current extent, condition and management of the upland and peatland habitats on the holding;
 - (ii) guidance on suitable grazing regimes;
 - (iii) details of any additional work required to secure their maintenance

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- and recovery,
with wildlife
conservation
as the key
management
priority;
- (iv) addresses, in an
integrated way,
all the impacts
that can lead
to erosion of
peat and upland
soils including:
trampling by
deer, tracking
by All Terrain
Vehicles
(ATVs),
muirburn and
peat cutting;
- (v) consideration of
the impacts of any
woodland present on
the site, and identify
zones where tree and
seedling tree removal
or clearance would
benefit the site's
conservation value;
 - (vi) identification
of zones where
ditch blocking
would be
beneficial and
details methods
to be used;
- (b) where the land is
also grazed by farm
livestock, undertakes
the Management of
moorland grazings
option in this
Schedule, in relation
to that land;
- (c) uses only low ground
pressure vehicles
on existing tracks
of dry, hard ground,
wherever possible,
and outwith reseeded
areas and only for

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essential agricultural management;

(d) where peat is cut for domestic fuel, cuts existing peatbanks, provided that the turfs are replaced on the cut surface with the vegetation side uppermost; and

(e) agrees a muirburn plan with SNH if the land involved forms part of an SSSI site or a European site or potential SPA.

The plan must detail areas proposed for muirburn, and appropriate burning rotation, fire-free areas and additional resources available to control fires and—

(i) no muirburn is to be undertaken between 16th April and 30th September inclusive; and

(ii) burning must be carried out in strips no more than 20m wide.

41. Management
moorland grazing

of (1) This is a 5 year £1.30 per hectare per year commitment.

(2) A beneficiary is eligible for payment under this option on moorland if the beneficiary—

(a) prepares and implements a moorland grazing plan which must be in place by the commencement of the undertaking, and

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which takes account of the combined impacts of livestock and other grazing animals present on the land;

- (b) includes in the plan a report on the current condition and management of the moorland and the proposed changes in shepherding, managing livestock and feeding practices that will benefit the environment and wildlife, which the beneficiary will carry out; and
- (c) uses the moorland for agricultural livestock production.

42. Management of moorland grazings on sites designated for their uplands and peatlands

(1) This is a 5 year £2 per hectare per year commitment.

(2) A beneficiary is eligible for payment under this option where the beneficiary undertakes farm livestock management on sites designated for their uplands and peatlands and if the beneficiary–

- (a) prepares and implements a Moorland Management Plan (MMP) that addresses, in an integrated way, all the impacts that can lead to erosion of peat and upland soils including: trampling by livestock, tracking by all terrain vehicles, muirburn and peat cutting;

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- (b) agrees a muirburn plan with SNH if the land involved forms part of an SSSI site, a European site or potential SPA. The MMP must detail areas proposed for muirburn, and appropriate burning rotation, fire-free areas and additional resources available to control fires and—
 - (i) no muirburn may be undertaken between 16th April and 30th September inclusive;
 - (ii) burning must be carried out in strips no more than 20m wide; and
 - (iii) the Muirburn Code published by the Scottish Ministers must be followed^{M71}.
- (c) uses only low ground pressure vehicles on existing tracks of dry, hard ground, wherever possible, and outwith reseeded areas and only for essential agricultural management; and
- (d) replaces turfs cut in existing peatbanks, where peat is cut for domestic fuel, on the cut surface with the vegetation side uppermost.

43. Moorland stock disposal (1) This is a 5 year £19.63 per hectare per year commitment.

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(2) A beneficiary is eligible for payment under this option on moorland of conservation interest which would benefit from a reduced stocking density if the beneficiary—

- (a) removes the agreed number of ewes from the site and the IACS business and does not increase the number of ewes on the moorland or business during the undertaking;
- (b) prepares and implements a Moorland Management Plan. The plan must describe the current condition of the moorland and how it is managed; how many ewes the flock will be reduced by and explain why this will benefit the condition of the moorland; and
- (c) removes from the IACS business the livestock before 1st March in the first year of the undertaking.

44. Away wintering of sheep (1) This is a 5 year £21 per hectare per year commitment.

(2) A beneficiary is eligible for payment under this option if the beneficiary—

- (a) prepares and implements a Moorland Management Plan which must—
 - (i) justify the need for reduced

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winter grazing
in terms of
anticipated
improvement
in habitat
condition; and

(ii) detail an
appropriate
grazing regime
that will sustain
the moorland
habitats
and, where
appropriate,
lead to
enhancement,
describing
indicators
of success
appropriate to
the site;

(b) removes an agreed
number of ewes and/
or hogs from the
notified moorland
site and the IACS
business for at least
22 weeks during the
winter;

(c) submits an
annual record of
management that
includes details of
the numbers and
timings of stock
away wintered; and

(d) reviews the plan with
SNH or Scottish
Ministers and
agrees any changes
necessary to meet the
indicators of success.

45. Off-wintering of sheep (1) This is a 5 year £9 per hectare per year.
commitment.

(2) A beneficiary is eligible
for payment under this option if
the beneficiary–

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- (a) prepares and implements a Moorland Management Plan which must—
 - (i) justify the need for reduced winter grazing in terms of anticipated improvement in habitat condition; and
 - (ii) detail an appropriate grazing regime that will sustain the moorland habitats; and, where appropriate, lead to enhancement, describing indicators of success appropriate to the site.
- (b) removes an agreed number of ewes and/or hogs from the notified moorland site to in-bye land on the holding for at least 22 weeks during the winter;
- (c) submits an annual record of management that includes details of the numbers and timings of livestock off wintered; and
- (d) reviews the plan with SNH or Scottish Ministers and agrees any changes necessary to meet the indicators of success.

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46. Muirburn and heather swiping
- (1) This is a 5 year commitment. £67 per hectare per year. Payment will be based on the average area to be burned each year.
- (2) A beneficiary is eligible for payment under this option if the beneficiary—
- (a) prepares and implements a muirburn plan. The plan must identify—
 - (i) the total area of moorland in the IACS business and the areas suitable for burning and frequency of rotation;
 - (ii) the average number of hectares planned to burn each year, the proposed methods of burning/ swiping and the resources available to manage muirburn safely;
 - (iii) fire-free areas to protect sensitive vegetation;
 - (iv) firebreaks and access routes for fire-fighting;
 - (v) the methods to be used to control the fires and fire sizes; and
 - (vi) justification for planned fires outwith 0.4 hectare and 1.0 hectare in size.

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Fires must also be no more than 50 metres wide;

- (b) follows the Muirburn Code published by the Scottish Ministers ^{M72} for all muirburning;
- (c) does not burn within fire free zone identified on plan and takes reasonable precautions to prevent fire spreading accidentally; and
- (d) carries out swiping from 1st September to 15th April only.

47. Management Hedgerows

- of (1) This is a 5 year commitment. Trimmed once in 3 years £0.93 per metre per year.
Trimmed once in 2 years £0.93 per metre per year.
- (2) A beneficiary is eligible for payment for established or beaten up hedges under this option if the beneficiary–
- (a) fills gaps in the hedge by coppicing, laying or planting;
 - (b) when managing a hedge for landscape benefits, cuts the hedge on both sides a maximum of once every 2 years and cuts one half of the length of the hedgerow in any one year;
 - (c) when managing for biodiversity benefits, cuts the hedge on both sides a maximum of once every 3 years and cuts only one third of the hedge in any one year;

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- (d) manages hedges so they are at least 1.5 metres tall and at least 2 metres wide at the base;
- (e) trims hedges between 1st December and 1st March;
- (f) does not apply pesticides within 2 metres of an established hedge;
- (g) uses an approved herbicide for any spot treatment of weeds within 1m of any new hedge plant;
- (h) does not mow or graze the hedge bottom;
- (i) sites any fences at least 1 metre from the centre line of the hedge;
- (j) manages both sides of the hedgerow, 1 metre on either side of the centre line, which equals a 2 metre strip in total to be managed;
- (k) plants new hedges as early as possible in the first year and no later than by the autumn immediately following the start of the undertaking. The hedge must be fully established within its first 18 months of development;
- (l) when undertaking new hedging or gapping up of existing hedges, establishes plants in a double row with a minimum of 6

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plants per metre.
A single species must not account for more than 75% of plants established. Species used must be native species of trees and shrubs, although beech and sycamore may be planted where these are appropriate and traditional in hedges locally. Plants should be used from the local area wherever possible;

- (m) protects plants from grazing livestock (farmed and wild) and rabbits; protection may be in the form of stockproof fencing with rabbit proof netting, where necessary;
- (n) controls weeds around each hedge plant for 3 4 years, by frequent cutting or mulching (including black polythene sheeting) or spot treatment using a herbicide approved for this purpose;
- (o) obtains road authority's consent for planting or replanting hedges within 5 metres of the edge of any major road; and
- (p) where necessary, coppices leggy hedges by cutting the main stem at a slight angle (to allow water to run off) 75 100

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centimetres above ground level and erects fences where necessary to prevent stock from browsing the re growth.

(3) Both sides of the hedge must be within the boundary of the relevant farm. This option cannot be adopted for a hedge that itself forms a march whether it be a boundary hedge or a roadside hedge.

(4) The cost of coppicing, laying and any later planting cannot be claimed under the Planting or re planting of hedge, Coppicing of hedge or Laying of hedge capital items as set out in Schedule 3.

(5) Only new hedge planting or gapping up carried out during the first 18 months of development of a newly planted hedge can be claimed under the Planting or re planting of hedge capital item as set out in Schedule 3.

**48. Management
Extended Hedges**

of (1) This is a 5 year commitment. Trimmed once in 3 years £0.53 per metre per year.

(2) A beneficiary is eligible for payment under this option on a strip of arable land or improved grassland situated alongside an existing or newly created hedge, if the beneficiary—

- (a) excludes all farm livestock from, and does not carry out arable cultivations within a strip extending to at least 3 metres from the centre line of the hedge;

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- (b) trims the hedge between 1st December and 1st March inclusive and once trimmed, does not trim the hedge again for at least 3 years;
- (c) leaves the grass in the strip uncut, unless with the prior written agreement of Scottish Ministers;
- (d) does not apply fertiliser, slurry or farmyard manure to the site;
- (e) does not apply pesticides on the site;
- (f) creates an extended hedge during the first year of the undertaking and maintains and manages it for a minimum 5 years;
- (g) uses where possible appropriate native-species trees and shrubs in hedge gaps;
- (h) where only one side of hedgerow is being managed, cuts the other side no more than once a year between 1st December and 1st March.

(4) The cost of coppicing, laying and any later planting cannot be claimed under the Planting or re planting of hedge, Coppicing of hedge or Laying of hedge capital items as set out in Schedule 3.

(5) Only new hedge planting or gapping up carried out

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during the first 18 months of development of a newly planted hedge can be claimed under the Planting or re-planting of hedge capital item as set out in Schedule 3.

49. Management of grass margins and beetlebanks in arable fields (1) This is a 5 year £473.76 per hectare per year commitment.

(2) For this option, suitable areas must be identified through an environment/diffuse pollution audit.

(3) A beneficiary is eligible for payment under this option if the beneficiary—

- (a) manages a strip between 1.5 metres and 6 metres in width in an arable field, with a minimum width of 6 metres or more where the management is to benefit Hen Harriers, Corn Buntings, Barn Owl or Kestrel;
- (b) ensures that where the entire field is not sown to an arable crop, the minimum width of the arable area adjacent to the grass strip is 30 metres;
- (c) establishes the strip by sowing a suitable mix of grass seed, including at least one species of nectar-feeding plant such as red clover, into a sterile seedbed;
- (d) does not apply fertiliser, slurry or farmyard manure to the strips.

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Spot treatment of scheduled and non native invasive weeds is permitted;

- (e) does not carry out scrub control except with the prior written agreement of Scottish Ministers. Beneficiaries are not eligible for additional payment to control scrub or weeds.
- (f) creates a sterile strip up to 0.5 metres in width which is then maintained by rotovation and herbicide along the inner edge of the grass margin;
- (g) does not apply pesticides to the site;
- (h) if grazing or topping the grass margin or beetlebank after harvest, ensures the average height of vegetation is not taken below 100 millimetres;
- (i) retains any area adjacent to the grass margins or beetlebanks in an arable crop for the duration of the undertaking;

(4) In a mixed arable situation where an area will be put into grass or other non-eligible crop after 3 years, the beetlebank/margin may be transferred to another eligible field for the remaining 2 years of the relevant period of the undertaking. In this situation, a beetlebank/grass margin may only be carried out once during

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the relevant period of the undertaking. On organic farms where the normal rotation is a 2 year cycle, the beetlebank/margin may be moved twice during the relevant period of the undertaking to ensure that the area is in an eligible crop. Details of the beetlebank/grass margins to be “rotated” in this way including field identifiers and area measurements must be submitted with the application for aid.

- 50. Bio-diversity cropping on in bye**
- (1) This is a 5 year commitment. £70.94 per hectare per year. Where cereal crop is harvested by binder and stooks gathered into stacks £470.94 per hectare per year.
- (2) A beneficiary is eligible for payment under this option on in-bye land if the beneficiary–
- (a) sows plots of spring cereals, fodder root crops or fodder rape each up to 2 hectares; their total area should not exceed 4 hectares over the whole unit;
 - (b) only undertakes cultivations and spreads fertiliser between 1st March and 15th May inclusive. Exceptionally, for fodder rape or root crops, cultivations may be carried out after 15th May; any nests located must be marked and avoided;
 - (c) does not apply herbicides or insecticides without prior written agreement of Scottish Ministers;
 - (d) does not apply pesticides to the site;

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- (e) after cropping does not plough or cultivate the area before 1st March of the following year;
- (f) maintains the same area of cropped land in each year of the undertaking unless as otherwise agreed by the Scottish Ministers.

(3) Any cropping rotation and crop within that rotation which is traditional in the area is eligible. Arable silage is not an eligible crop.

(4) Land which is in conversion to organic production under an undertaking under the “Conversion to and maintenance of organic farming” option in Schedule 2 to these Regulations or under the 1994 Regulations or the 2004 Regulations [^{F35}is not eligible].

51. Management of cropped machair

(1) This is a 5 year commitment. Arable cropping £233 (without farmyard manure/seaweed) per hectare per year.

(2) A beneficiary is eligible for payment under this option on previously cultivated machair land (i.e. improved grassland, land in crop or lying fallow after an arable crop) if it is brought into the required crop/fallow rotation in the first, second or third year of the undertaking by the sowing of a spring crop and has been subject to cultivation within the last 10 years and if the beneficiary—

- (a) ensures the site is included in an arable rotation, comprising at least 15% of the

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ploughable area of the machair on the site and is sown to an arable crop or left fallow;

- (b) after harvesting the arable crop, leaves the site fallow to revert to natural grassland for a minimum of 2 and a maximum of 3 years;
- (c) only undertakes any cultivation or rolling between 1st March and 15th May inclusive;
- (d) does not exceed a shallow cultivation depth of 100 millimetres;
- (e) only applies herbicides with prior written agreement of Scottish Ministers;
- (f) pesticides must not be applied to the site;
- (g) seaweed and farmyard manure may be applied in accordance with traditional practice; and will be eligible for a premium payment in accordance with the rate of payment set out in Column 3.

(3) A supplementary premium will be paid if a cereal crop is harvested by binder and the stooks gathered into stacks at the rate of payment set out in Column 3.

52. Management of ancient wood pasture	(1) This is a 5 year commitment.	£105 per hectare per year for in-bye land. £50 per hectare per year for rough grazing.
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(2) Sites currently listed in, and candidate sites for the Inventory of Ancient Wood Pasture in Scotland ^{M73} are eligible under this option.

(3) This option may be adopted for ancient wood pasture sites where there are existing veteran trees and for areas which are contiguous with existing ancient wood pasture and now devoid of veteran trees but where there is historical evidence, from 1st edition 1860 maps, that such a habitat has existed.

(4) A beneficiary is eligible for payment under this option if the beneficiary.

- (a) where the open pasture element of the wood pasture is grassland, improved or unimproved, on the in bye either—
 - (i) excludes livestock for 6 consecutive weeks from 1st April until 15th June inclusive and at other times, sets grazing levels to maintain an average sward height of between 5 and 20 centimetres; or
 - (ii) where the aim of this option would not be achieved by adopting (i) above set out and agree with Scottish Ministers

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a livestock management and grazing regime. Stocking rates must be set to maintain an average sward height of between 5 and 20 cm. Evidence to support the adoption of the management and grazing regime must accompany the application for aid;

And, for both (i) and (ii) above, the beneficiary must—

- (aa) not apply pesticides, lime, artificial fertiliser, farmyard manure or slurry to the site. Herbicides may be applied to control injurious weeds using a weed wiper, spot treatment or hand sprayer;
- (bb) not carry out any topping before 31st July;
- (cc) not use the site for supplementary feeding of stock;
- (dd) where planting of small trees will serve to extend or enhance this habitat, use species appropriate to the site and, where available, of local provenance;
- (ee) protect newly planted trees or any successful regeneration either as individual trees or in groups. The stem density within such groups must not exceed 50 trees per hectare while the spacing

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- between them must not be less than 20 metres;
- (ff) erect wooden post-and-rail fencing or metal tree guards where required to maintain and prolong the life of individual veteran trees;
- (gg) make provision through a deer control plan, agreed with the Deer Commission for Scotland, for the control of deer grazing;
- (b) where the open pasture element of the wood pasture is acid grassland or heath, on the rough grazings, does the following—
 - (i) does not apply pesticides, lime, artificial fertiliser, farmyard manure or slurry must not be applied to the site. Herbicides may be applied to control injurious weeds using a weed wiper, spot treatment or hand sprayer;
 - (ii) excludes farm livestock between 1st November and 28th February inclusive. At other times, grazing levels should be set to maintain an average grass sward height of between 5 and 20 centimetres;
 - (iii) does not use the site for supplementary feeding of stock.;
 - (iv) where planting of small trees will serve to extend or enhance this habitat, use Species

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- appropriate to the site and, where available, of local provenance;
- (v) protects newly planted trees or any successful regeneration, either as individual trees or in groups. The stem density within such groups will not exceed 50 trees per hectare while the spacing between them will not be less than 20 metres;
- (vi) erects wooden post-and-rail fencing or metal tree guards where required to maintain and prolong the life of individual veteran trees; and
- (vii) makes provision through a deer control plan, agreed with the Deer Commission for Scotland, for the control of deer grazing.

53. Management of scrub and tall herb communities (1) This is a 5 year £94 per hectare per year commitment.

(2) A beneficiary is eligible for payment under this option on scrub of high environmental value that can be maintained or enhanced where it would not be detrimental to existing landscape character or to sites of wildlife interest, if the beneficiary–

- (a) manages the grazing of scrub and open habitat mosaic to maintain an appropriate balance between these components, ensuring that scrub is in good condition

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and regeneration is present at a level sufficient to maintain current extent. The open habitats must be managed according to the programme guidance;

- (b) eradicates any Rhododendron present on the site;
- (c) avoids poaching by managing stock carefully when ground conditions are wet;
- (d) unless otherwise agreed with Scottish Ministers, retains all mature or over-mature standing trees and all standing and fallen deadwood, unless they are a genuine safety hazard. Tree surgery must be limited to that required for the safety of people and farm livestock;
- (e) in upland areas, marks all new fences with bird strike markers, where relevant to Capercaillie and Black Grouse;
- (f) does not apply fertilisers, slurry, farmyard manure, or lime to areas of scrub habitat except with the prior written agreement of Scottish Ministers;
- (g) does not apply pesticides to the site;

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- (h) does not provide supplementary feeding on the site;
 - (i) does not plough or carry out cultivation such as reseeded, rolling or chain harrowing work unless these are required to establish trees and shrubs and as agreed with Scottish Ministers;
 - (j) does not cut new drains or modify or improve existing drainage systems although existing drains may be maintained;
- and where appropriate–
- (k) cuts areas of scrub to encourage regeneration from the stump and carries out thinning to enhance structural diversity of the stand;
 - (l) removes dense vegetation and scarifies the ground in order to help create favourable condition for natural regeneration of scrub species to occur;
 - (m) mows or flails open areas each year – to be carried out in late summer or autumn to avoid destroying seeding herbs;
 - (n) considers planting as a last resort or layering to regenerate stands, where there is no natural source of regeneration and if seeding cannot occur naturally.

54. Arable reversion to grassland (1) This is a 5 year £250 per hectare per year commitment.

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(2) A beneficiary is eligible for payment under this option if the beneficiary—

- (a) identifies risk areas through a specialist Diffuse Pollution Audit or Soil and Water Management Plan and converts fields or areas within fields that are prone to flooding, runoff and/or erosion risk from arable farming to grassland—
 - (i) grassland must be established by sowing a suitable mix of grass seed, any areas of soil compaction must be addressed before grass seed is sown;
- (b) when the grass sward is established—
 - (i) controls grazing to limit poaching and avoid damage to river and loch banks;
 - (ii) does not apply fertiliser, slurry or farmyard manure;
 - (iii) does not apply pesticides except with the prior approval of Scottish Ministers. Spot treatment of scheduled and non-native invasive weeds is permitted without

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prior written agreement; and

(iv) does not cultivate;

(v) does not clear existing drains or cut new drains except with the prior written approval of Scottish Ministers.

- 55. Conservation management plan with special measures for small units**
- (1) This is a 5 year commitment. £25 per hectare per year plus a fixed sum of £180. 4 or more current applications from the same crofting community will be deemed to be part of a collective application: £25 per hectare per year plus a fixed sum of £275.
- (2) A beneficiary is eligible for payment under this option if the area of in bye land occupied by the business is no more than 20 hectares (excluding any apportionments, house and steading) and the beneficiary—
- (a) prepares and carries out a conservation management plan for the whole unit (the entire in bye and any apportionments but excluding any share in the common grazings) and such plan—
- (i) sets out clear environmental objectives, and describes how the unit will be managed to meet these objectives; and
- (ii) addresses all relevant activities on the unit (i.e. grazing management, winter feed production, cropping, farm livestock management,

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management
of special
habitats/
features
including
BAP habitats
and species,
and pollution
control).

(3) Within crofting communities, an application for aid which is one of at least 4 applications from the same crofting community will be deemed to be part of a collective application.

56. Grazing management of cattle

(1) This is a 5 year commitment.

Introduction of cattle £273 per hectare per year.
Retention of cattle £185 per hectare per year.

(2) A beneficiary is eligible for payment under this option if it is undertaken in combination with the “Conservation management plan with special measures for small units” option in this Schedule and the beneficiary either–

- (a) keeps cattle in which case the beneficiary must continue to keep 2 or more breeding cows of Scottish traditional or native breed(s) on the holding for the lifetime of the undertaking; or
- (b) introduces cattle where no breeding cows are present, or the existing herd has only one or no dams of either pure breed or first cross native or traditional stock 2 or more breeding cows or heifers of traditional

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or native breeds
must be run on the
unit by the end of
the first year of the
undertaking with
the heifers to calve
down by the end of
the second year of
the undertaking and—

(i) if determined
by Scottish
Ministers, the
number of any
sheep must
be reduced in
proportion to
the number
of cattle
introduced
to achieve
sustainable
stocking levels;

(ii) for the
remainder of
the undertaking
the beneficiary
must continue
to keep 2
or more
breeding cows
of Scottish
traditional or
native breed(s)
on the holding.

(3) Only the following
breeds are acceptable under this
option;

Aberdeen Angus
Ayrshire
Belted Galloway
Galloway
Highland
Luing
Shetland
Shorthorn
First crosses of these
native breeds.

Also, the use of a continental
bull across the herd is
permitted.

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57. Specialist environment plan

- agri (1) This is a 5 year commitment. This is a capital item £1.02 per hectare per annum for the first 150 hectares and £0.20 per hectare per annum for the next 100 hectares up to a maximum of £873.28 per plan over 5 years per application for aid.
- (2) A beneficiary is eligible for payment under this option if the Scottish Ministers approve the preparation of a specialist agri environment plan prepared by a specialist or following specialist advice in such form and containing such information as the Scottish Ministers reasonably require and if the beneficiary—
- (a) develops and implements a specialist agri environment plan in order to deliver the desired outcomes in support of an application for aid which includes activities in any of the rural priorities options numbered 15 to 56 [^{F36}and 74 to 77]; and
 - (b) provides evidence that the concrete agri environment commitments set out in the specialist agri environment plan referred to in (a) above have been completed.
- (3) Support for a specialist agri environment plan is not available where a beneficiary has received support for an outcome plan in relation to an application for aid which includes activities on the same land in any of the rural priorities options numbered 15 to 56 [^{F36}and 74 to 77].

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- 58. Habitat management** grazing (1) This is a 5 year £7.82 per hour commitment.
- (2) A beneficiary is eligible for payment under this option for land within moorland and upland SSSI sites and European sites where a moorland plan has identified a need for extra shepherding to address localised overgrazing or undergrazing issues and other approaches would be ineffective or impractical and the beneficiary–
- (a) undertakes additional shepherding efforts to achieve outcomes specified in the moorland management plan; and
 - (b) submits an annual record of management work detailing the number of hours when undertaken problems encountered any visible signs of change in target habitat and any changes in sheep behaviour.
- (3) This option cannot be used to address an overgrazing problem caused by feed locations or inappropriate stock numbers.
- 59. Livestock tracks, gates and river crossings** (1) This is a 5 year commitment. Up to 50% of actual costs except for gates which are a standard cost capital item.
- (2) A beneficiary is eligible for payment under this option if the beneficiary–
- (a) identifies any livestock tracks, gateways or river

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crossings that are not suitably positioned, or could be improved, to prevent soil, nutrient or faecal contamination of watercourse and identifies more appropriate sites for these features;

- (b) identifies on a plan the location and nature of the risk factors for all sites (track, gate, and river crossing) and the activities to be undertaken, and describes how they will reduce the risk to the water environment; and
- (c) takes appropriate remedial action based on (a) and (b).

60. Woodland creation

- (1) This is a 10 year commitment. ^[F37]Payment rates for establishment up to 70% (up to 80% in Less Favoured Areas) of the standard cost of planting and maintenance (up to 100% of standard costs) are shown at Table C in Part 2 of this Schedule.]
- (2) A beneficiary is eligible for payment under this option if the beneficiary—
 - (a) establishes and maintains new woods using one or a mix of the following woodland types—
 - (i) productive conifer woodland (low cost); ^[F38]Payment rates for additional fencing capital items are up to 70% (up to 80% in Less Favoured Areas) of the standard cost shown for fencing related items in Table D in Part 2 of this Schedule.] Annual payments for agricultural income foregone for up to 15 years are Per hectare—Arable and improved on non Less Favoured Areas £300
 - (ii) productive conifer woodland (high cost);
 - (iii) productive broadleaved woodland; Arable and Improved on disadvantaged areas of the Less Favoured Areas £230

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- (iv) native woodland;
 - (v) naturally regenerated native woodland;
 - (vi) mixed conifer/broadleaf woodland;
 - (b) ensures the design of the woodland conforms to the design criteria in table B set out in Part 2 of this schedule; and.
 - (c) ensures the planting complies with the UK Forestry Standard.
- Arable and improved on severely disadvantaged areas of Less Favoured Areas £160
Unimproved land £60
Payment rates for each woodland type are shown at Table C in Part 2 of this schedule.
[^{F39}A supplementary payment of £1,500 per hectare may be made for a community woodland].

- 61. Sustainable management of forests and woodlands**
- (1) This is a 10 year commitment.
 - Up to £28 per hectare per year.
 - Up to £56 per hectare per year in areas of high level of public access overlap with either native woodlands or areas of LISS.
 - (2) A beneficiary is eligible for payment under this option if the beneficiary has a forest holding of 1 hectare or greater and–
 - £41 per hectare per year where the removal of livestock results in agricultural income forgone. Payment will be approved for 10 years but with a review after 5 years.
 - £130 per hectare for a period of 4 years for those areas undergoing restructuring felling. Payment will commence on completion of the felling in the identified areas.
 - (a) manages the land in accordance with an approved forest plan that complies with the UK Forestry Standard; and
 - (b) delineates and provides information on the environmental condition and environmental outcomes to be delivered in each of the following areas–
 - (i) areas of native woodland consisting of woodland types that are recognised HAP priorities and are

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- under active management towards or to maintain favourable condition;
- (ii) areas designated and agreed for positive management under low impact silvicultural systems (LISS);
- (iii) areas of woodland subject to a high level of access and recreational use, and where evidence of additional costs associated with environmental management are provided;
- (iv) in areas of native woodland and areas designated LISS a deer management plan must be produced (as a component of the Forest Plan) and to reduce deer numbers in these areas;
- (c) produces a costed action plan that demonstrates that the proposed expenditure exceeds £28 per hectare per year for the

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relevant period of the undertaking; and

- (d) delineates areas of even-aged planting undergoing restructuring felling during the period of the forest plan.

62. Woodland improvement grants

(1) A beneficiary is eligible for payment under this option if the beneficiary—

- (a) justifies either in a forest plan or management plan that they will deliver one or more of the following—

- (i) improvement of the ecological value of the woodland by reducing deer numbers;

- (ii) improvement of the ecological value of native woodlands, through work related to priority woodland HAPs and SAPs;

- (iii) improvement of the environmental value of non-native woodland, through work related to priority woodland HAPs and SAPs;

- (iv) improvement of the

Up to [^{F40}100%] of the standard costs for each item listed in Table D in Part 2 [^{F41}Approved operations must be carried out and paid once during the 5 year contract period].

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environmental value of even aged planted woodland by restructuring their age and species composition;

(v) improvement of the environmental value of priority non-woodland habitats within native and non native woodlands; and

(vi) improvement of the environmental value of priority non woodland habitats within native and non-native woodlands. In the case of non woodland habitat restoration this must not exceed 20% of the area classified as woodland; and

(b) carries out one or more of the items listed in Table D in Part 2.

<p>63. Support diversification agriculture</p>	<p>out</p>	<p>for</p>	<p>(1) A beneficiary is eligible for payment under this option if the beneficiary is a member of the farm household as defined in Article 35 of Commission Regulation 1974/2006 and–</p>	<p>Up to 50% of eligible costs.</p>
			<p>(a) demonstrates that there is a market for the proposed product or service which is a diversified activity outwith</p>	

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agriculture and that the beneficiary has or can acquire the skills and resources to provide these on a commercial basis; and

- (b) demonstrates that these diversified activities will improve the household income stream and complement existing agricultural activities.

(2) The capital investments eligible for funding include tangible or intangible costs related to—

- (i) new or upgraded buildings or structures;
- (ii) changes in land use from agricultural to non agricultural uses;
- (iii) the development or upgrading of services or other infrastructural elements;
- (iv) new machinery or equipment including information technology; and
- (v) general costs related to these expenditures including architects, consultants and engineers fees.

64. Support for the development and creation of micro enterprises (1) A beneficiary is eligible for payment under this option if the beneficiary is— Up to 50% of eligible costs.

- (a) a land manager (other than a farmer) who diversifies or adds value to their existing land based enterprises to complement

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or supplement
their income from
traditional land
management
activities; or

- (b) an entrepreneur who sets up or develops unique businesses which will contribute to the vibrancy of the rural community, create employment opportunities and/or meet market demand for the provision of certain facilities and services in rural areas;

(2) For both (a) and (b) in (1) above the capital investments eligible for funding will include tangible or intangible costs related to—

- (i) new or upgraded buildings or structures;
- (ii) the development or upgrading of services or other infrastructural elements;
- (iii) new machinery or equipment including information technology;
- (iv) general costs related to these expenditures including architects, consultants and engineers fees; and
- (v) marketing and promotional costs.

65. Support for renewable energy (non land based)

(1) A beneficiary is eligible for payment under this option if the beneficiary is a producer network, rural community group or a rural business and the beneficiary—

- (a) develops small scale renewable energy capacity that uses a

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range of renewable technologies and investment will–

- (i) result in improvement in the viability of any non land based business enterprise;
 - (ii) benefit a rural community; and
 - (iii) produce environmental benefits;
- (b) where applicable, shows that a viable fuel supply and an adequate installation and after sales support will be available to the end user.

(3) Renewable devices must be installed by an accredited installer ^{M74}.

- (4) Eligible costs include–
- (a) purchase and installation, construction, upgrading or development of infrastructure and/ or equipment of renewable device;
 - (b) purchase of specialist equipment for harvesting, pre use processing, quality assurance and handling;
 - (c) direct costs related to the creation of producer groups, including legal and administrative work in setting up, rental of office

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accommodation
and purchase/
rental of office
and information
technology
equipment.

66. Information
awareness raising

and (1) A beneficiary is eligible for payment under this option if the beneficiary is a rural land manager, community group or non profit organisation and the beneficiary— Up to 75% of actual costs for capital items with a ceiling limit of £500 per item. This is a one-off payment per item paid in arrears.

(a) provides small scale recreational and interpretational infrastructure, and develops and markets services in relation to access to the countryside through the provision of one or more of the following—

(i) publications and other media which include information appropriate to the target audience;

(ii) interpretation panels/trails/ signage which must provide information to the public on the area or activities they can see out on a trail;

(iii) accessibility improvements for the public; and

(iv) coach parking and turning areas for disabled

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parking and
school groups.

- (b) in their application for aid, identifies how they propose to promote and market the project. This must include the activities to be undertaken and written confirmation from their local authority as defined in section 32 of the Land Reform (Scotland) Act 2003 ^{M75} that the beneficiary has liaised with them prior to submitting the application;
- (c) with their application include a 1:10 000 scale map showing the detail of the project including the location of any capital items included in the application. A copy of the map must be submitted by the beneficiary to their local authority as defined in section 32 of the Land Reform (Scotland) Act 2003 prior to submitting their application. Written evidence of receipt of the map by the local authority must be submitted with the application;
- (d) keeps a record of the relevant biosecurity and health and safety requirements undertaken to support this option;

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- (e) provides written confirmation that they are not in receipt of other funding sources for any items being applied for under this option;
- (f) submits at least 2 quotes with the application.

<p>67. Area management and creation and upgrading of paths and routes</p>	<p>access and monitoring, and creation and upgrading of paths and routes</p>	<p>(1) This is a 5 year commitment.</p>	<p>Up to 75% of actual costs for capital items F42</p>
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(2) A beneficiary is eligible
for payment under this option if the beneficiary is a rural land manager, community group or non profit organisation and if they undertake one or more of the following–

- (a) to increase and improve the amount and quality of paths/ routes in and around communities, or at locations which experience or have potential for significant visitor use;
- (b) to increase and improve the amount and quality of paths/ routes between communities;
- (c) to improve shared path use (multi-use), and use by specific user groups;
- (d) increase and improve the amount and quality of paths/ routes to, through and along places of interest;
- (e) improve the integration between

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access and land
management; and

- (f) assist the suitable
implementation and
monitoring of core
paths as defined
in accordance
with Section 17 of
the Land Reform
(Scotland) Act 2003
M76.

(3) In all cases beneficiaries
must—

- (a) provide evidence that
they have consulted
the local authority
within the meaning
of section 32 of
the Land Reform
(Scotland) Act 2003,
to help co ordinate
with local access
priorities; and
- (b) undertake one
or more of the
following activities—
 - (i) path/route
construction,
upgrading and
associated
works,
including those
for particular
user groups;
 - (ii) vegetation
reduction to
enable access;
 - (iii) provision of
car parking
areas, seats,
picnic tables,
hard-standings;
 - (iv) provision of
dog exercise
areas close to
arrival points;
- (v) provision of safety
features if required
to facilitate access

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to viewpoints, water margins and well used areas;

(vi) management of fields and areas near to communities to integrate access and informal recreational use with productive use including the installation of gates and link paths;

(vii) manage responsible access in relation to sensitive areas;

(viii) monitor levels and characteristics of public use including by operation of people-counters and/or surveys;

(ix) provide signage – signposts, fingerposts, way marks and/or information boards; and

(x) provides visitor information leaflets.

(4) Tarmac/bitumen surfaced motor-vehicle tracks are ineligible for upgrading under this option.

(5) Bridge capital items available under option are only eligible where the bridge is of a type which is not designed for motorised vehicle

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use, other than one which has been constructed or adapted for use by a person who has a disability. The bridge must be for members of the public exercising their rights under Part 1 of the Land Reform (Scotland) Act 2003 and must link 2 paths or routes together and cannot be used for vehicle infra structure purposes.

(6) In all cases, a beneficiary must—

- (a) submit a 1:10 000 scale map, with their application for aid, showing the detail of the project and identifying the location and type of path/route and each capital item contained within the proposal;
- (b) submit a copy of the map to their relevant local access authority prior to submitting their application. Written evidence of receipt of the map by the local authority must be submitted with the application;
- (c) ensure all paths and routes and capital items meet the technical specifications contained within the programme guidance, unless the beneficiary provides prior written agreement to any variation to such technical specifications from their local authority as defined

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in section 32 of the Land Reform (Scotland) Act 2003 ^{M77} prior to submitting their application; and

- (d) with their application, confirms in writing that no other funding mechanism, organisation or individual is enhancing or maintaining any of the paths or facilities identified in the proposal.

- 68. Reducing bacterial contamination in watercourses**
- (1) A beneficiary is eligible for payment under this option if they are persons or businesses with responsibility for the disposal or treatment of sewage in rural areas, including through septic tanks in sensitive waters such as shellfish growing waters or bathing waters and the beneficiary—
- One off capital payment of 50% of actual cost of investment in the infrastructure on project completion.
- (a) has a septic tank or other sewage treatment system that meets basic environmental protection criteria, as confirmed by SEPA;
- (b) SEPA confirms that this discharge is in need of additional (secondary or tertiary) treatment in order to meet the microbiological objectives of downstream protected areas, including marine waters; and
- (c) improves the means of disposal or treatment of sewage

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in a rural area by
either or both–

- (i) improvement of a septic tank system; and
- (ii) installation of further treatment including biological treatment or a reed bed.

(2) Schemes already receiving or projected for funding through Scottish Water developments are ineligible for funding.

69. Provision of leisure, recreation, sporting, catering and other rural community services and facilities (1) A beneficiary is eligible for payment under this option if the beneficiary– Up to 100% of approved eligible costs.

- (a) is a rural community group;
- (b) provides or improves rural community structures, services or facilities;
- (c) provides evidence that such provision or improvement have economic and environmental sustainability; and
- (d) demonstrates community need and demand for the structure, service or facility to be provided.

70. Active management to improve the condition of vernacular rural buildings, archaeological or historic sites and historic landscapes (1) A beneficiary is eligible for payment if they are a rural land manager, business, non profit organisation, community group or individual with eligible buildings or sites and if the beneficiary undertakes either or both of the following– For option (a),^{F43}...payment in arrears, at 100% of actual costs incurred during the claim year. For option (b), one off payment in arrears, at 75% of total project costs incurred.

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- (a) carries out management works to improve the condition of specified archaeological or historic sites or historic landscapes and subsequently monitors and manages the improved sites; or
- (b) carries out a programme of specified repair and/or development works to conserve and enhance pre 1940 rural buildings, excluding buildings designated as scheduled monuments under the Ancient Monuments and Archaeological Areas Act 1979^{M78} of traditional character for the area.

(2) Where a beneficiary undertakes (a) above the following applies—

- (a) the beneficiary must—
 - (i) detail, on a map or sketch, the precise area to be managed;
 - (ii) keep a photographic record of each site managed before management commences, during year 3 of the undertaking and during

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year 5 of the
undertaking;
and

(iii) consult
Historic
Scotland before
carrying out
any work on a
site designated
as a scheduled
monument
under the
Ancient
Monuments
and
Archaeological
Areas Act 1979
and comply
with that Act;
and

(b) a beneficiary is
eligible for payment
if they undertake
any of the following
works—

(i) tree felling
and removal,
which must be
supported by a
precautionary
survey to
assess tree
health, historic
significance
and integrity,
and presence
of protected
species;

(ii) control of
scrub, bracken,
regenerating
trees and other
woody plants;

(iii) muirburn,
which must
be undertaken
in accordance
with the
Muirburn Code
published by

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the Scottish
Ministers ^{M79};

(iv) grazing control.

If the site managed is designated under as a scheduled monument under the Ancient Monuments and Archaeological Areas Act 1979, fences, stiles or gates must be located outside the scheduled area. If the site managed is not designated under that Act, fences, stiles or gates must be located at least 10m from the outermost visible features on site;

(v) earthwork repair and reseeded. Beneficiaries must consult SEPA before importing earth or topsoil to the site and comply with the requirements of the Waste Management Licensing Regulations 1994 ^{M80}.

(vi) consolidation works to, and vegetation removal from, masonry structures;

(vii) removal of recent

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- field-cleared
stone from
archaeological
or historic
sites;
- (viii) establishment
of a 10 metre
unploughed
buffer zone
around visible
archaeological
or historic
sites; or
- (ix) taking an
archaeological
site visible
as cropmarks
in aerial
photographs
out of
cultivation
and sowing to
grass. When
establishing the
sward, plough
depth must not
exceed 100
millimetres;
and
- (c) a beneficiary must
submit a record
of labour hours
and costs incurred
on materials and
machinery use
(in the form of
receipts where
possible) in support
of payment claims.
If a beneficiary
undertakes the work
themselves, the
skilled labour hourly
rate will apply.
If a beneficiary
employs a contractor
to undertake the
work on their behalf,
receipted invoices
must be provided in
support of payment
claims. Works

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associated with the requirements of the Waste Management Licensing Regulations 1994^{M81} are ineligible for funding.

(3) Where a beneficiary undertakes (b) above the following applies—

(a) a beneficiary must—

- (i) seek advice from the local planning authority regarding the need for planning permission within the meaning of the Town and Country Planning (Scotland) Act 1997^{M82}, listed building consent within the meaning of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997^{M83} or building warrant and obtain the necessary consents when required; and
- (ii) undertake a precautionary survey to assess for the presence of protected species prior

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to works
commencing;

- (b) a beneficiary is eligible for payment if the beneficiary submits a record of labour hours and costs incurred on materials and machinery use (in the form of receipts where possible) in support of payment claims. If a beneficiary undertakes the work themselves, the skilled labour hourly rate will apply. If a beneficiary employs a contractor to undertake the work on their behalf, receipted invoices must be provided in support of payment claims. Specialist fees, including architects' and engineers' fees, are eligible for payment;
- (c) a beneficiary is not eligible for payment—
 - (i) if the building managed is used for human habitation or occupation, either permanent, temporary or seasonal;
 - (ii) the beneficiary is already receiving payment under another rural priorities option for non productive investments

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as defined in
Article 36(b)
(vii), Article
41 and Article
49 of Council
Regulation
1698/2005)
on the same
building.

71. Enhancing enjoyment and maintaining the character of rural landscapes (1) This is a 5 year commitment. Items funded under this option must be maintained for 5 years following the end of the year in which the funding was given. 75% of actual costs for capital items paid in arrears up to £5500 per beneficiary.

(2) A beneficiary is eligible for payment under this option if the beneficiary is a rural land manager, community group or a non profit organisation and if they do one or more of the following–

(a) screen intrusive structures, storage areas and infrastructure in which case–

(i) intrusive structures, storage areas and infrastructure must be one or more of the following–

(aa) visible from accessible viewpoints, public roads and access routes and within 500 metres of

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features
and
structures
of
historic
interest;

(bb) within
a
NSA,
National
Park,
Regional
Park
or area
near
to and
easily
accessible
from
communities;
or

(cc) next to
path
networks,
well
used
access
areas
and in
areas
where
there
is
demand
for
increased
access
provision;

(ii) the beneficiary
must carry
out one or
more of the
following site
clearance and
establishment
activities–

(aa) erecting
temporary
fencing
to
demarcate

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- works
areas
where
necessary;
 - (bb) providing
alternative
temporary
access
where
appropriate;
 - (cc) preparing
ground
works
and
draining
as
necessary;
 - (dd) spraying
off
vegetation
when
required;
or
 - (ee) removing
non
native
invasive
species
when
required
in
conjunction
with
the
“Control
of
invasive
non
native
species”
option
in this
schedule;
and
- (iii) the beneficiary
must carry out
one or more of
the following
new works–
- (aa) erecting
fencing,

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- walls
and
dyking;
- (bb) planting
hedging;
- (cc) creating
well
shaped
earth
graded
to
create
gentle
slops;
or
- (dd) planting
trees
and
shrubs;
- (iv) the applicant
must submit
with their
application
for aid, a
1:10 000 map
showing the
location of the
proposals and
photographs of
the area to be
screened;
- (b) create and manage
viewpoints which
must be within
a NSA or from
a public road,
accessible historic
feature and other
landmark, access
route or designation
point within a
National Park,
Regional Park or
within the Inventory
of Gardens and
Designed Landscape
M84 or an area near
to and accessible
from communities
in which case
the beneficiary

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must carry out the following activities–

- (i) initially clear the site by removing trees, scrub and/or structures to reveal views by carrying out one or more of the following–
 - (aa) removal of vegetation and relocating fences obstructing the proposed viewpoint to provide a clear, unimpeded view of features or landscape. Activities may include crown lifting, limb removal and thinning of trees;
 - (bb) removal of vegetation, trees or structures. Any tree surgery works must

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be
carried
out
between
December
and
March
by a
qualified
tree
surgeon;
and

(cc) any
removal
of non
invasive
species
must
be
carried
out in
conjunction
with
the
“Control
of
invasive
non
native
species”
option
in this
Schedule;

(ii) manage the
viewpoint by
carrying out
one or more of
the following
activities
annually—

(aa) reducing
the
height
of
scrub
and
vegetation
to
ground
level
through
grazing,

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cutting
or
flailing
vegetation
close
to the
ground.
Cutting
or
flailing
must
be
carried
out
between
August
and
March;
and

(bb) removing
litter
from
the
viewpoint
site in
spring,
summer
and
autumn;

(iii) the applicant
must submit
with their
application for
aid, a 1:10 000
map showing
the location of
the proposed
viewpoint
and any
capital items
associated with
the viewpoint,
identifying
the location
of views from
public roads,
accessible
historic
features, access
routes and
elevated view
points; and

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- (iv) the applicant must submit photographs of the proposed site of the viewpoint and the view from that site with their application for aid;
- (c) restore or reinstate existing stone walls, dykes and/or flagstone walls as linear features which are deteriorated and/or damaged and locally distinctive building boundary features that contribute to the landscape character and need to be restored and or replaced in which case—
 - (i) walls, dykes, flagstone walls and locally distinctive built boundary features must be constructed in the style of, and using methods and material traditional to, the locality. The style, methods and material of the restoration, or reinstatement and replacement must match the adjacent areas of the wall/dyke and for locally distinct

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built boundary
features other
similar features
on the site.
Stone which
has obviously
fallen from the
wall or dyke
must be used
for the repair;

(ii) to be eligible
dykes must be
between 50 and
80% complete
and continuous
along one field
length; and

(iii) temporary
fencing must
be used as
required
while repairs
are being
undertaken;

(iv) the following
items must be
submitted with
the application
for aid–

(aa) photographs
of the
item
proposed
for
restoration,
reinstatement
and
in the
case of
locally
distinctive
built
boundary
features,
replacement;

(bb) a 1:10
000
map
identifying
the
location

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and
extent
of
such
item;
and

(cc) prior
written
permission
from
Historic
Scotland
for any
work
to sites
within
the
Inventory
of
Gardens
and
Designed
Landscapes
^{M85} and
in the
curtilage
of a
building
listed
under
the
Planning
(Listed
Building
and
Conservation
Areas)
(Scotland)
Act
1997
^{M86}
monument
scheduled
pursuant
to the
Ancient
Monuments
and
Archaeological
Areas
Act

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1979
M87, or

- (d) establishes and manages single and small groups of up to 24 trees as landscape features in which case—
 - (i) the tree and/or trees must be visually prominent; and/or accessible to the public; and/or cultural, biodiversity, historic or landscape interest. In all cases the tree/trees must be either—
 - (aa) subject to a Tree Preservation Order under section 160 or 164 of the Town and Country Planning (Scotland) Act 1997 M88, or located within a Conservation Area designated as such pursuant to section 61 of the

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Planning
(Listed
Building
and
Conservation
Areas)
(Scotland)
Act
1997
M89, or
listed
in the
Inventory
of
Gardens
and
Designed
Landscapes
M90.

- (bb) agreed
by
Historic
Scotland
to be
of
inventory
standard;
- (cc) within
a NSA
or a
National
Park;
- (dd) within
an area
that is
either—
near
to and
accessible
from
communities;
along
roadsides;
or
located
where
public
access
is
encouraged;

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- (ii) the beneficiary must carry out one or more of the following activities—
 - (aa) undertake tree surgery and maintenance works by carrying out one or more of the following—
 - a survey of existing tree health and condition by a qualified tree surgeon, arboriculturalist or chartered forester. The survey must include information on the existing health of the tree, current and proposed management activities to expand the

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tree
lifespan
and
any
requirements
for
planned
tree
replacement,
retention
and
rejuvenation;
felling
of
trees,
pruning
of
limbs
and
thinning
crowns
to
make
safe,
restore,
improve
the
health
and
secure
the
longevity
of
trees.
Felling
of
trees
must
be
carried
out
by a
qualified
tree
surgeon;
coppicing,
branch
thinning
and/or
planting
to
encourage

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the
regeneration
and
rejuvenation
of an
appropriate
scrub
layer
within
or
associated
with
small
woodland
features;
or
the
erection
of
protective
fencing
appropriate
to the
historic
or
landscape
character
to
prevent
damage
to
individual
trees
from
livestock
or
vehicles;

(bb) establish
or
replace
a tree
or
trees
by
carrying
one or
more
of the
following
activities—
planting
standard

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or
semi
standard
trees.
These
must
be
staked
at
ground
level
and
watered,
mulched
and
fertilised
with
granular
fertiliser
following
the
instructions
on the
label
at the
recommended
application
rate;
maintaining
new
trees
and
mulch,
water,
beat
up and
fertilise
at the
recommended
application
rate,
annually
as
appropriate
for the
first 4
years;
protecting
trees
from
livestock,
deer,

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voles,
rabbits
and
hares
by the
use of
tree
guards
and
fencing.
Wooden
post
and
rail
fencing
or
metal
tree
guards
must
be
used.
Other
materials
may
be
used
for
fencing
where
these
are
characteristic
of the
historic
or
landscape
character;
or

(cc) establish
replacement
or new
shrub
species
for
single
and
small
groups
of up
to 24
trees

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by
carrying
out
one or
more
of the
following—
planting
shrubs
which
must
be 60
80 cm
bare
root
plants
planted
at 1
metre
spacing
in
prepared
ground
with
up to a
maximum
25%
of the
area.
Shrubs
must
be
watered,
mulched
and
fertilised
with
granular
fertiliser
following
the
instructions
on the
label
at the
recommended
application
rate;
maintaining
new
shrubs
and

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water,
weed,
beat
up,
mulch
and
fertilise
at the
recommended
application
rate
annually
as
appropriate
for the
first 4
years;
or
protecting
shrubs
from
livestock,
deer,
voles,
rabbits
and
hares
by the
use of
tree
guards
and
fencing.
Wooden
post
and
rail
fencing
or
metal
tree
guards
must
be
used.
Other
materials
may
be
used
for
fencing

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where
these
are
characteristic
of the
historic
or
landscape
character;
and

(iii) the beneficiary
must—

(aa) submit
with
the
application
for aid,
a 1:10
000
map
identifying
the
location
and
trees
proposed
for
management
and/or
replacement;

(bb) submit
with
the
application
for aid,
consent
for the
works
from
local
authority
if any
of the
tree/s
identified
in the
proposal
lie
with a
Conservation
Area
designated

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as
such
pursuant
to
section 61
of the
Planning
(Listed
Building
and
Conservation
Areas)
(Scotland)
Act
1997
M91 or
are
subject
to a
Tree
Order
under
section 160
or 164
of the
Town
and
Country
Planning
(Scotland)
Act
1997
M92.
and

(cc) confirm
in the
application
if any
of the
trees
proposed
for
management
already
receive
existing
protection
or
management
and
if so
demonstrate

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how
this
application
goes
further
than
the
current
protection/
management;

(dd) submit
with
the
application
2
quotes
for the
works.

(3) Items funded in this option must not be adopted in areas where they will compromise biodiversity objectives or will be used to comply with conditions imposed on a grant of planning permission within the meaning of the Town and Country Planning (Scotland) Act 1997 or a condition to which planning permission has granted by virtue of the Town and Country Planning (Scotland) (General Permitted Development) Order 1992^{M93}.

72. Skills development in rural areas (1) A beneficiary is eligible for payment under this option if the beneficiary undertakes vocational training courses for individual persons eligible to apply for any of options numbered 63 to 73 in this schedule and the beneficiary is a rural economic actor (including farmers, crofters, foresters and other land managers and community groups), their immediate family members and employees and is 16 years of age or older. 75% of the cost of training.

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(2) The following conditions apply—

- (a) the training courses must relate directly to an application for aid under options numbered 63 to 73 in this schedule;
- (b) the training provider must be certified by an appropriate certification body; and
- (c) the course must not—
 - (i) form part of normal agricultural, forestry or other programmes at secondary or higher education levels;
 - (ii) be required or lead to a certificate, licence, diploma or other qualification that is required by law to carry out the beneficiary's basic work activities; or
 - (iii) be funded, in whole or in part, by other public funds.

73. Production of collaborative development strategy

of a local authority payment under this option if the beneficiary is—

- (a) part of a partnership consisting of public sector, private and voluntary organisations (or any individual partner

Variable. Up to 15% of the public expenditure relating to the relevant development strategy for the running costs of the public private partnership.

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- of such partnership selected as the lead partner) with a minimum of 33% non public sector organisations involved in the development and implementation of a collaborative local development strategy; and
- (b) not any of the groups (“local action groups”) or part of any such groups under Article 62(1)(b) of Council Regulation 1698/2005; and the beneficiary undertakes one or more of the following—
- (i) undertakes studies of the area concerned;
 - (ii) provides information about the area and the local development strategy once developed;
 - (iii) arranges the training of staff involved in the preparation and implementation of the local development strategy;
 - (iv) undertakes promotional events;
 - (v) undertakes training of leaders; or
 - (vi) undertakes the implementation of the local development strategy.

^{F44}74. Removal of vegetation/debris from Sites notified for geological features

(1) This is a capital item with a 5 year commitment attached. Up to 100% of actual costs.

(2) A beneficiary is eligible for payment under this option for the removal of vegetation and/or debris on SSSI Sites

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notified for their geological features where—

- (a) such features have been assessed by SNH as being in unfavourable condition due to encroaching vegetation and/or accumulating debris; or
 - (b) SNH confirms that these features are at risk of falling into unfavourable condition due to encroaching vegetation and/or debris.
- (3) The beneficiary must—
- (a) submit a management plan to the Scottish Ministers detailing how they will manage the site to benefit the geological features by removing—
 - (i) accumulating debris; and/or
 - (ii) trees, tree saplings and scrub;
 - (b) keep a copy of the management plan and provide this on request by the Scottish Ministers. The management plan must—
 - (i) describe the area of conservation value that will benefit from the management;
 - (ii) state the extent of the

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- vegetation/
debris to be
removed;
- (iii) describe
the type of
management
and treatments
to be used to
achieve this,
including any
follow up
action; and
- (iv) mark the areas
on a 1:10,000
scale map;
- (c) provide a report
to the Scottish
Ministers on
submission of a
claim for payment of
aid, that includes—
 - (i) details of the
methods of
removal used;
 - (ii) details of the
time spent on
removing the
vegetation and/
or debris, if
the beneficiary
carries out the
works;
 - (iii) details of the
locations where
the vegetation
and/or debris
was cleared
from; and
 - (iv) photographic
evidence of the
work carried
out.

[^{F45}(4) A beneficiary may make a maximum of one claim in any one year and a maximum of 5 claims during the period of their contract. Each payment will be paid in arrears.]

75. Erosion Control

(1) This is a capital item with Up to 100% of actual costs. a 5 year commitment attached.

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(2) A beneficiary is eligible for payment under this option where a beneficiary carries out erosion control works as part of a management plan aimed at achieving the favourable condition of features for which SSSI Sites or European sites were notified.

- (3) The beneficiary must—
- (a) submit a management plan that—
 - (i) demonstrates an understanding of the erosion processes affecting the site;
 - (ii) considers the implications of controlling the erosion;
 - (iii) provides details about intended management, where and when works will take place, what the benefits will be and how these will be monitored; and
 - (iv) if features are being affected by other herbivores, includes measures to address these impacts and the impacts of burrowing animals in an integrated way;
 - (b) for sites affected by coastal erosion, obtain specialist

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advice and consult
with the relevant
local authority;

(c) where controlling
burrowing animals—

(i) does so
through
a control
programme
agreed with
the Scottish
Ministers; and

(ii) complies with
all appropriate
legislation and
relevant Codes
of Practice as
outlined in the
programme
guidance.

[^{F45}(4) A beneficiary may
make a maximum of one claim
in any one year and a maximum
of 5 claims during the period
of their contract. Each payment
will be paid in arrears.]

76. Renewable energy powered pumps for water troughs (1) This is a capital item with a 5 year commitment attached. Up to 100% of actual costs.

(2) A beneficiary is eligible for payment for a pump under this option where the pump installed is powered by renewable energy (solar, wind or water power) and is to provide water to a trough for livestock.

[^{F46}(3) In any 5 year period a beneficiary may make one claim for each single pump purchased (subject to (2)), to serve each trough or system of troughs and in each case payment will be made in arrears.]

77. Capital works required for features for which SSSI Sites and European sites were notified to help bring them into favourable condition (1) This is a capital item with a 5 year commitment attached. Up to 100% of actual costs.]

(2) A beneficiary is eligible for payment under this option on land on or adjacent to

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SSSI Sites and European sites for capital works aimed at bringing the features for which the SSSI Site or European site was notified into favourable condition.

(3) The beneficiary must agree the eligible costs in advance with the Scottish Ministers.

[^{F45}(4) A beneficiary may make a maximum of one claim in any one year and a maximum of 5 claims during the period of their contract. Each payment will be paid in arrears.]

Textual Amendments

- F23** Words in Sch. 2 Pt. 1 omitted (7.11.2009) by virtue of [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **8(a)**
- F24** Words in Sch. 2 Pt. 1 inserted (1.2.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment Regulations 2009 \(S.S.I. 2009/1\)](#), regs. 1, **4(a)(i)**
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M92 1997 c. 8.

M93 S.S.I. 1992/223.

Textual Amendments

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PART 2

Table A

Land type	Year 1	Year 2	Year 3	Year 4	Year 5
	Conversion				
Arable	£220	£220	£60	£60	£60

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Improved grassland	£105	£105	£50	£50	£50
Fruit & vegetable	£300	£300	£60	£60	£60
Unimproved grassland/ rough grazing	£5	£5	£5	£5	£5
	Maintenance				
Arable	£60	£60	£60	£60	£60
Improved grassland	£50	£50	£50	£50	£50
Fruit & vegetable	£60	£60	£60	£60	£60
Unimproved grassland/ rough grazing	£5	£5	£5	£5	£5

Table B

Woodland Type	Minimum wood or individual block size planted per year (hectares)	Composition	Minimum stocking density per hectare at year 5 or when considered to be 'established'
Productive conifer woodland (low cost)	5.0	(—) up to 85% conifers but predominantly spruce (—) at least 5% broadleaves (—) up to 10% open ground	Spruce – 2500 Broadleaves – 1100
Productive conifer woodland (high cost)	5.0	(—) up to 85% other conifers e.g. Scots Pine, Douglas Fir, Larch (—) at least 5% broadleaves (—) up to 10% open ground	Pine – 3000 Douglas Fir, Larch – 2000 Broadleaves – 1100

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Productive broadleaved woodland	2.0	<p>(—) at least 85% productive broadleaves e.g. Oak, Beech, Sycamore, Ash</p> <p>Oak, Beech – 3100 Sycamore, Ash – 2500 Other Broadleaf – 1100</p> <p>(—) up to 5% other broadleaves</p> <p>(—) up to 10% open ground</p>
[^{F47} Native and riparian woodland (planting)]	0.25	<p>(—) at least 75% species native to the locality and appropriate to the site [^{F47}1100]</p> <p>(—) up to 25% open ground</p>
[^{F47} Native and riparian woodland (natural regeneration)]	0.25	<p>(—) at least 75% species native to the locality [^{F47}1100]</p> <p>(—) up to 25% open ground</p>
Mixed conifer / broadleaf woodland	0.25	<p>(—) at least 80% mixed conifer and broadleaves, the latter being at least half of the planted area. [^{F47}1100]</p> <p>Conifer – 2500 Broadleaves –</p> <p>(—) up to 20% open ground</p>

Textual Amendments

F47 Words in Sch. 2 Pt. 2 substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **8(f)**

Status: Point in time view as at 07/11/2009.

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[F48] Table C

<i>Woodland Type</i>	<i>Establishment £/ha *</i>	<i>Maintenance Standard Cost Rate £/ha/year **</i>
Productive conifer woodland (low cost)	1724	161.39
Productive conifer woodland (high cost)	2064	186.40
Productive broadleaved woodland	3317	229.79
Native and riparian (planting model)	2802	218.20
Native and riparian (natural regeneration model)	905	101.60
Mixed conifer/broadleaf woodland	3063	222.40

* Paid as a lump sum on completion of planting.

** Paid as an annual payment for a period of 5 years. Trees must be satisfactorily 'established' within 10 years of planting. Only payable where planting has occurred on agricultural land or abandoned agricultural land (i.e. at least 50% of a woodland type must be on agricultural land and/or abandoned agricultural land to be eligible for the maintenance payments).

The term 'established' means that trees must be present to the minimum stocking densities specified, healthy, and in a condition capable of continued growth given no further weeding but subject to normal ongoing maintenance operations such as protection from inappropriate grazing by wild or domestic animals.

An additional establishment premium for using genetically improved planting material is available as follows:

Categories of genetically improved planting material	£ per hectare
Sitka spruce seed orchard material that falls within the tested category in terms of regulation 4 of the Forest Reproductive Material (Great Britain) Regulations 2002	50
Sitka spruce vegetatively propagated tested 'family mixture' material derived from controlled cross-pollination.	150]

Textual Amendments

F48 Sch. 2 Pt. 2 Table C substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **8(g)**

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[^{F49}Table D**Standard Costs For Forestry Operations/ Capital Items**

<i>Column 1</i> <i>Item</i>	<i>Column 2</i> <i>Standard Cost</i>
Fell/extract dangerous trees	£200 per tree
Manual brashing	£0.35 per tree
High pruning	£1.30 per tree
Badger gates installed in fence lines which are cutting across an established badger run	£110 per gate
Respace natural regeneration	[^{F50} £600] per hectare
Early pruning of trees	£250 per hectare
High pruning of trees	£400 per hectare
Pre commercial and non commercial woodland thinning	£150 per hectare
Removal of tree crop to waste 3 – 6 metres high	£750 per hectare
Woodland clearance benefiting raised bog/ blanket bog felling of waste	£975 per hectare
Woodland clearance benefiting raised bog/ blanket bog – felling and extraction	£1375 per hectare
Seedling tree removal	£35 per hectare
Small scale woodland thinning	£300 per hectare
Chipping/mulching of tree debris and brash	£500 per hectare
Restructuring with Caledonian Scots pine	[^{F51} £411.64] per hectare
Restructuring with diverse conifers	[^{F51} £411.64] per hectare
Restructuring with mixed broadleaves	[^{F52} £1,030.14] per hectare
Restructuring with native broadleaves	[^{F53} £1,100] per hectare
Woodland deer impact reduction	£30 per hectare for deer control during the first 5 years of a Deer Management Plan
Forest plan preparation	£20 per hectare for first 200 hectares, £5 per hectare thereafter with a minimum payment of £400 and a maximum payment of £15,000
Dead wood management	£40 per hectare
Stock fence	£4 per metre
Enhancing/modifying a stock fence in black grouse and capercaillie core areas	£2 per metre
[^{F54} New deer fence	£7.25 per metre]
Upgrading stock to deer fence	£2.75 per metre

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Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

<i>Column 1</i> <i>Item</i>	<i>Column 2</i> <i>Standard Cost</i>
Scare or temporary fencing	£1.50 per metre
Rabbit proofing – existing or new stock/deer fence	£1.90 per metre
Enhancing/modifying a deer fence in black grouse and capercaillie core areas	£5 per metre
Conversion of deer fence to stock fence in black grouse and capercaillie core areas	£2 per metre
Fence removal	£2 per metre
Gate for stock fence	£100 each
Gate for deer fence	£170 each
Ditch/drain blocking with plastic piling dams:	£60 per dam
Small ditches (up to 0.5 metres wide and deep)	
Ditch/drain blocking with plastic piling dams:	£120 per dam
Medium ditches (between 0.5 and 1 metre wide and deep)	
Ditch/drain blocking with plastic piling dams:	£280 per dam
Large ditches (between 1 and 2 metres wide and 0.5 and 1 metre deep)	
Peat dam	£0.26 per metre of drain or furrow blocked with peat dams. Minimum payment £300
Small scale tree and shrub planting (on a site not exceeding 0.25 hectares)	£2 per tree or shrub
Heather restoration (in Black Grouse core areas)	£250 per hectare
Provision of bat and bird boxes	£15 per box.]

Textual Amendments

- F49** Sch. 2 Pt. 2 Table D substituted (1.2.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment Regulations 2009 \(S.S.I. 2009/1\)](#), regs. 1, **5**
- F50** Sum in Sch. 2 Pt. 2 substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **8(h)**
- F51** Sum in Sch. 2 Pt. 2 substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **8(i)**
- F52** Sum in Sch. 2 Pt. 2 substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **8(j)**
- F53** Sum in Sch. 2 Pt. 2 substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **8(k)**

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

F54 Words in Sch. 2 Pt. 2 inserted (7.11.2009) by The Rural Development Contracts (Rural Priorities) (Scotland) Amendment (No. 3) Regulations 2009 (S.S.I. 2009/335), regs. 1, **8(1)**

SCHEDULE 3

Regulation 9(7)

Standard Payment Rates for Capital Items

A beneficiary is eligible for payment for these capital items only where the beneficiary has undertaken to carry out or beneficiary has undertaken to carry out or carry out and maintain an activity under [^{F55}any of the rural priorities options numbered 15 to 57]. The capital items must be carried out in accordance with the requirements in the programme guidance.

<i>Column 1</i> <i>Capital Item</i>	<i>Column 2</i> <i>Rate of Payment</i>
Livestock tracks, gates and river crossing – impacts on diffuse pollution	50% of actual cost except for gates which are standard cost item
Sheep management – additional sheep movement to achieve habitat outcomes	£7.82 per hectare
Primary treatment of bracken	£200 per hectare of infested land
Manual eradication of rhododendron	[^{F56} £3700] per hectare of infested land
[^{F57} Mechanised (and/or chemical) eradication of rhododendron]	[^{F57} £1750] per hectare of infested land
F58	F58
...	...
Eradication of scrub/woody vegetation:Light vegetation category	£600 per hectare
Eradication of scrub/woody vegetation:Intermediate vegetation category	£850 per hectare
Eradication of scrub/woody vegetation:Heavy vegetation category	£1250 per hectare
Removal from site of the cut scrub/woody vegetation: Light vegetation cover	£500 per hectare
Removal from site of the cut scrub/woody vegetation: Intermediate vegetation cover	£1,050 per hectare
Removal from site of the cut scrub/woody vegetation: Heavy vegetation cover	£1,450 per hectare
Dead wood management	£40 per hectare
Stock fence	£4.00 per metre
Enhancing/ modifying a stock fence (in black grouse and capercaillie core areas)	£2 per metre
Upgrading stock to deer fence	£2.75 per metre

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Scare or temporary fencing	£1.50 per metre
Rabbit proofing existing or new stock/ deer fence	£1.90 per metre
Deer fence	[^{F59} £7.25] per metre
Enhancing/ modifying a deer fence (in black grouse and capercaillie core areas)	£5 per metre
Conversion of deer fence to stock fence (in black grouse and capercaillie core areas)	£2 per metre
Fence removal	£2 per metre
Gate	(i) Gate for stock fence: £100 each (ii) Gate for deer fence: £170 each
Kissing gate/self-closing gate for non-vehicular access	£350 each
Stile	£55 each
Stock bridge for bog management	Small bridge : £170 per bridge Large bridge for ditch wider than 1.5m : £620 per bridge
Small-scale tree and shrub planting (on a site not exceeding 0.25 hectares)	£2 per tree or shrub
Replacement or new single trees within a Designed Landscape or to enhance the rural landscape	£100 per tree
Post & rail fence	£10 per metre
Building/restoring drystone or flagstone dykes	£17.50 per square metre
Sand blow fencing	£10.00 per metre
Planting of marram grass into areas threatened with erosion	£8 per square metre
Provision of water trough to replace traditional watering points	£195 each
Installation of water supply pipe to water trough or pasture pump	£3 per metre of pipe laid
Water trough pump: cattle operated pasture or nose pump	£180 per installed pump
Soil analysis (including sampling)	£24.90 per sample
Planting or re-planting of hedge	£4.30 per metre
Coppicing of hedge	£4.00 per metre
Laying of hedge	£8.00 per metre
Creation or restoration of a pond	£3.00 per square metre
Laying down species-rich grassland	£680 per hectare

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Heather restoration (in black grouse core areas)	£250 per hectare
Heather track creation for bog management	£1.50/ metre
Peat dam	£0.26 per metre of moor grip to be blocked with peat dams. Minimum payment £300.
Ditch blocking with plastic piling dams	(a) (a) For small ditches up to 0.5 metres wide and deep: £60 per dam. (b) (b) For medium ditches up to 1 metre wide and deep: £120 per dam. (c) (c) For large ditches of depth up to 1 metre and 2 metre wide:£280 per dam
Underdrain (or culvert) breaking	£20 per drain (or culvert) broken
Watercourse Channel Enhancement	£4.00 per linear metre of watercourse
Provision of bat or bird box	£15.00 per box
Open range deer management to enhance the natural heritage	£3 per hectare of eligible deer range

Textual Amendments

- F55** Words in Sch. 3 substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **9(a)**
- F56** Sum in Sch. 3 substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **9(b)**
- F57** Words in Sch. 3 substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **9(c)**
- F58** Words in Sch. 3 omitted (7.11.2009) by virtue of [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **9(d)**
- F59** Sum in Sch. 3 substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **9(e)**

Textual Amendments

- F55** Words in Sch. 3 substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **9(a)**
- F56** Sum in Sch. 3 substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **9(b)**
- F57** Words in Sch. 3 substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **9(c)**
- F58** Words in Sch. 3 omitted (7.11.2009) by virtue of [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **9(d)**
- F59** Sum in Sch. 3 substituted (7.11.2009) by [The Rural Development Contracts \(Rural Priorities\) \(Scotland\) Amendment \(No. 3\) Regulations 2009 \(S.S.I. 2009/335\)](#), regs. 1, **9(e)**

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SCHEDULE 4

Regulation >9(5)

PART 1

Historic Environment Condition

The damage or destruction of any feature or areas of historic or archaeological interest must be avoided and guidance approved by the Scottish Ministers must be followed for the protection of such features or areas ^{M94}.

Marginal Citations

M94 The guidance to be followed is outlined in the programme guidance.

Marginal Citations

M94 The guidance to be followed is outlined in the programme guidance.

PART 2

Primary Legislation

The Ancient Monuments and Archaeological Areas Act 1979 (c. 46).

The Wildlife and Countryside Act 1981 (c. 39).

The Clean Air Act 1993 (c. 11).

The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c. 9).

The Water Environment and Water Services (Scotland) Act 2003 (asp 11).

The Nature Conservation (Scotland) Act 2004 (asp 6).

Secondary Legislation

The Control of Pesticides Regulations 1986 ^{M95}.

Marginal Citations

M95 [S.I. 1986/1510](#) as amended by [S.I. 1994/3142](#), 1997/188 and 2001/880.

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Marginal Citations

M95 [S.I. 1986/1510](#) as amended by [S.I. 1994/3142](#), 1997/188 and 2001/880.

The Sludge (Use in Agriculture) Regulations 1989 ^{M96}.

Marginal Citations

M96 [S.I. 1989/1263](#) as relevantly amended by [S.I. 1996/593](#) and [S.S.I. 2000/62](#).

Marginal Citations

M96 [S.I. 1989/1263](#) as relevantly amended by [S.I. 1996/593](#) and [S.S.I. 2000/62](#).

The Waste Management Licensing Regulations 1994 ^{M97}.

Marginal Citations

M97 [S.I. 1994/1056](#) as relevantly amended by [S.I. 1994/1137](#), 1995/288 and 1950, 1996/593, 634, 916, 972, 973 and 1279, 1997/2203, 1998/606 and 2746, and [S.S.I. 2000/323](#) and 235, 2003/170, 171 and 593, 2004/275, 2005/22, 2006/128 and 541, 2007/172 and 251.

Marginal Citations

M97 [S.I. 1994/1056](#) as relevantly amended by [S.I. 1994/1137](#), 1995/288 and 1950, 1996/593, 634, 916, 972, 973 and 1279, 1997/2203, 1998/606 and 2746, and [S.S.I. 2000/323](#) and 235, 2003/170, 171 and 593, 2004/275, 2005/22, 2006/128 and 541, 2007/172 and 251.

The Conservation (Natural Habitats etc.) Regulations 1994 ^{M98}.

Marginal Citations

M98 [S.I. 1994/2716](#) as relevantly amended by [S.I. 2007/1843](#), [S.S.I. 2004/475](#), 2006/270, 2007/80, 349, 485 and 517 and 2008/17.

Marginal Citations

M98 [S.I. 1994/2716](#) as relevantly amended by [S.I. 2007/1843](#), [S.S.I. 2004/475](#), 2006/270, 2007/80, 349, 485 and 517 and 2008/17.

The Ancient Monuments (Class Consents) (Scotland) Order 1996 ^{M99}.

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Marginal Citations

M99 [S.I. 1996/1507](#).

Marginal Citations

M99 [S.I. 1996/1507](#).

The Pollution Prevention and Control (Scotland) Regulations 2000 ^{M100}.

Marginal Citations

M100 [S.S.I. 2000/323](#) as amended by [2004 asp 8](#), [Schedule 2](#), paragraph 7, [S.S.I. 2002/493](#), [S.S.I. 2003/146](#), [170](#), [221](#), [235](#) and [411](#), [2004/26](#), [110](#), [112](#) and [512](#), [2005/101](#), [340](#) and [510](#), [2006/127](#) and [S.I. 2007/2325](#).

Marginal Citations

M100 [S.S.I. 2000/323](#) as amended by [2004 asp 8](#), [Schedule 2](#), paragraph 7, [S.S.I. 2002/493](#), [S.S.I. 2003/146](#), [170](#), [221](#), [235](#) and [411](#), [2004/26](#), [110](#), [112](#) and [512](#), [2005/101](#), [340](#) and [510](#), [2006/127](#) and [S.I. 2007/2325](#).

The Contaminated Land (Scotland) Regulations 2000 ^{M101}.

Marginal Citations

M101 [S.S.I. 2000/178](#) as amended by [S.S.I. 2000/323](#), [2005/658](#) and [2007/179](#).

Marginal Citations

M101 [S.S.I. 2000/178](#) as amended by [S.S.I. 2000/323](#), [2005/658](#) and [2007/179](#).

The Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2003 ^{M102}.

Marginal Citations

M102 [S.S.I. 2003/51](#) as amended by [S.S.I. 2003/169](#).

Marginal Citations

M102 [S.S.I. 2003/51](#) as amended by [S.S.I. 2003/169](#).

The Animal By-Products (Scotland) Regulations 2003 ^{M103}.

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Marginal Citations

M103 S.S.I. 2003/411 as amended by S.S.I. 2006/530 and 2007/1.

Marginal Citations

M103 S.S.I. 2003/411 as amended by S.S.I. 2006/530 and 2007/1.

The Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003 ^{M104}.

Marginal Citations

M104 S.S.I. 2003/531 as amended by S.S.I. 2006/133 and 2008/54.

Marginal Citations

M104 S.S.I. 2003/531 as amended by S.S.I. 2006/133 and 2008/54.

The Plant Protection Products (Scotland) Regulations 2005 ^{M105}.

Marginal Citations

M105 S.S.I. 2005/331 as amended by S.S.I. 2006/241, 449 and 576 and 2007/119 and 410.

Marginal Citations

M105 S.S.I. 2005/331 as amended by S.S.I. 2006/241, 449 and 576 and 2007/119 and 410.

The Water Environment (Controlled Activities) (Scotland) Regulations 2005 ^{M106}.

Marginal Citations

M106 S.S.I. 2005/348 as amended by S.S.I. 2006/553 and 2007/219.

Marginal Citations

M106 S.S.I. 2005/348 as amended by S.S.I. 2006/553 and 2007/219.

The EC Fertilisers (Scotland) Regulations 2006 ^{M107}.

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Marginal Citations

[M107 S.S.I. 2006/543](#).

Marginal Citations

[M107 S.S.I. 2006/543](#).

The Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006 ^{M108}.

Marginal Citations

[M108 S.S.I. 2006/582](#) as amended by 2006/614.

Marginal Citations

[M108 S.S.I. 2006/582](#) as amended by 2006/614.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations introduce measures to supplement Council Regulation (EC) No. 1698/2005 (“the Council Regulation”) which lays down general rules governing Community support for rural development (financed by the European Agricultural Fund for Rural Development established by Council Regulation (EC) No. 1290/2005 (O.J. No. L 209, 11.8.2005, p.1.)) and Commission Regulations (EC) Nos. 1974/2006 and 1975/2006 laying down detailed rules for the application of the Council Regulation.

They also implement Article 74(1) of the Council Regulation and Article 9(1) of Council Regulation (EC) No. 1290/2005 which require Member States to adopt legislative and administrative provisions to ensure that the Community's financial interests in relation to expenditure on rural development are effectively protected.

The Regulations provide for the payment of aid to be made available by the Scottish Ministers from the Scotland Rural Development Programme 2007-13 to any person who enters into an undertaking with the Scottish Ministers to carry out, or as the case may be carry out and maintain the activities relevant to at least one of the rural priorities options set out in Schedule 2, and where relevant one or more than one of the capital items set out in relation to a particular rural priorities option or set out in Schedule 3 (regulations 4 and 12).

The Regulations also provide that where a person enters into an undertaking which includes an activity under certain rural priorities options the person must also comply with the requirements established by Article 4 of and Annex III to Council Regulation (EC) No. 1782/2003, the good agricultural and environmental conditions specified in regulation 4 of and the Schedule to the

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Common Agricultural Policy Schemes (Cross-Compliance) (Scotland) Regulations 2004 and the condition and requirements specified in Parts 1 and 2 of Schedule 4 to these Regulations. The amount of aid payable in respect of an undertaking is calculated with reference to the activity or capital item to be undertaken (regulation 11). The rate of payment corresponding to each activity is specified in Schedule 2 to the Regulations. The rate of payment corresponding to each capital item is specified in Schedule 3.

The Regulations also—

- (a) make provision as to the form and content of the applications for aid and outcome plans (regulations 3 and 5);
- (b) define land which is eligible for aid (regulation 7);
- (c) make provision in respect of the determination of applications for aid (regulation 8);
- (d) make provision in respect of undertakings (regulation 9);
- (e) impose restrictions on the approval of applications and payment of aid (regulation 10);
- (f) make provision in respect of claims and payments (regulation 12);
- (g) make provision in relation to a change of occupation of the land to which an undertaking relates (regulation 13);
- (h) confer powers of entry and inspection on authorised persons (regulation 14);
- (i) make provision in relation to breaches of undertakings (regulation 15);
- (j) make provision in relation to the withholding and recovery of aid (regulations 16 and 17);
- (k) make provision for the supply of information and record keeping (regulation 18);
- (l) make provision as to the recovery of interest (regulation 19);
- (m) provide that sums payable to Scottish Ministers shall be recoverable as a debt (regulation 20);
- (n) make provision for the publication of guidance (regulation 21); and
- (o) make provision for offences (regulation 22);
- (p) make provision in respect of appeals (regulation 23).

The effect of the Regulations is to permit financial assistance to businesses, community groups, collaborations and individuals involved in providing social, economic and environmental benefits. Since there will be no increase in the costs to the Scottish Government, local government or business no Regulatory Impact Assessment has been prepared in respect of these Regulations.

Status:

Point in time view as at 07/11/2009.

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008. Any changes that have already been made by the team appear in the content and are referenced with annotations.