
STATUTORY INSTRUMENTS

1994 No. 2710 (S.138)

AGRICULTURE

The Habitats (Scotland) Regulations 1994

<i>Made</i>	- - - -	<i>17th October 1994</i>
<i>Laid before Parliament</i>		<i>1st November 1994</i>
		<i>22nd November</i>
<i>Coming into force</i>	- -	<i>1994</i>

The Secretary of State, being a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on him by that section and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and extent

1. These Regulations may be cited as the Habitats (Scotland) Regulations 1994, shall come into force on 22nd November 1994 and shall apply to Scotland only.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping, freshwater fish farming, the use of land as grazing land, meadow land, osier land, reed beds, market gardens and nursery grounds, and “agricultural” shall be construed accordingly;

“arable land” means land—

- (a) on which an arable crop is growing, or has been planted; or
- (b) which is lying fallow as part of a normal arable rotation; or
- (c) which is grassland which forms part of a normal arable rotation; or
- (d) set-aside and which has been land within the meaning of sub-paragraphs (a) to (c) above prior to being set-aside;

“application” means an application for aid under the scheme made in accordance with regulation 7 and “applicant” and “apply” shall be construed accordingly;

(1) S.I.1972/1811.
(2) 1972 c. 68.

“beneficiary” means a person or grazings committee whose application has been accepted by the Secretary of State;

“coastal heath” means vegetation associated with cliff tops or sand dunes, strongly influenced by salt spray and exposure and dominated by heather, crowberry, sedges and sea plantain, or various combinations of these species;

“damp lowland grassland and marsh communities” means grassland or other communities on poorly drained, waterlogged or seasonally flooded ground, dominated by native grasses, sedges, reeds, rushes or wetland broadleaved plants;

“date of entry into the scheme” means the date on which an applicant proposes to assume obligations under the scheme in accordance with regulation 7(f);

“dry lowland grassland” means grassland on light or freely draining soils dominated by native grasses such as fescues and bents and containing various characteristic broadleaved plants;

“farm” includes a common grazing;

“farmer” includes a grazings committee;

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

“habitat site” means an area of land on a farm in respect of which an applicant has given an undertaking as specified in regulation 3;

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

“landlord” means—

- (a) in the case of an agricultural holding to which the Agricultural Holdings (Scotland) Act 1991⁽⁴⁾ (the “1991 Act”) applies, the landlord within the meaning of section 85 of that Act;
- (b) in the case of a croft within the meaning of the Crofters (Scotland) Act 1993, the landlord within the meaning of section 61(1) of that Act;
- (c) in the case of a holding within the meaning of the Small Landholders (Scotland) Act 1911⁽⁵⁾ to which the 1991 Act does not apply, the same as it means in the 1911 Act;

and, where appropriate, includes a head tenant;

“less-favoured area” has the same meaning as in the Farm and Conservation Grant Regulations 1991⁽⁶⁾;

“management plan” means a description of the methods by which the applicant intends to manage the habitat site so as to establish or improve a wildlife habitat and to benefit the flora and fauna, taking into account the requirements of the Schedule to these Regulations which applies to the proposed habitat;

“muirburn” has the same meaning as in section 39(1)(f) of the Hill Farming Act 1946⁽⁷⁾;

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

(3) 1993 c. 44.

(4) 1991 c. 55.

(5) 1911 c. 49.

(6) S.I. 1991/1630, to which there are amendments not relevant to these Regulations.

(7) 1946 c. 73.

“scheme” means the scheme to withdraw land from agricultural production for purposes connected with the environment for a period of 20 years as specified in Article 2(1)(f) or to use other farming practices compatible with the requirements of protection of the environment and natural resources as specified in Article 2(1)(d) of Council Regulation (EEC) No.2078/92 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside⁽⁸⁾;

“set-aside” means set-aside in accordance with the provisions of Council Regulation (EEC) No.1765/92 establishing a support system for certain arable crops⁽⁹⁾ and Article 5 of Commission Regulation (EC) No.762/94 laying down detailed rules for the application of Council Regulation (EEC) No.1765/92 with regard to set-aside⁽¹⁰⁾;

“statutory weeds” means spear thistle (*cirsium vulgare*), creeping or field thistle (*cirsium arvense*), curled dock (*rumex crispus*), broad-leaved dock (*rumex obtusifolius*) and ragwort (*senecio jacobaea*);

“tenant” means—

- (a) in the case of an agricultural holding to which the 1991 Act applies, the tenant within the meaning of section 85 of that Act;
- (b) in the case of a croft within the meaning of the Crofters (Scotland) Act 1993, the crofter within the meaning of section 3(3) of that Act;
- (c) in the case of a holding within the meaning of the Small Landholders (Scotland) Act 1911 to which the 1991 Act does not apply, the tenant within the meaning of section 2(2) of the 1911 Act;

and, where appropriate, includes a sub-tenant;

“upland scrub” means land with woody vegetation dominated by scrub species, or by tree species which are prevented from reaching their normal size by reason of the site conditions;

“waterside habitats” means land alongside watercourses and the vegetation that naturally arises from the cessation of grazing and cropping.

(2) Any reference in these Regulations to a numbered regulation or Schedule shall be construed as a reference to the regulation or Schedule so numbered in these Regulations.

Aid for improvement or establishment of habitats

3.—(1) Subject to the provisions of these Regulations, the Secretary of State may make payments of aid under the scheme to an applicant who—

- (a) satisfies the conditions of eligibility specified in regulation 4;
- (b) has made an application in accordance with regulation 7 which has been accepted by the Secretary of State;
- (c) has given the undertakings specified in either sub-paragraph (a) or sub-paragraph (b) of paragraph (2) below in respect of each habitat site to which the application relates; and
- (d) has given the additional undertakings specified in paragraph (3) below in respect of each such habitat site.

(2) The undertakings referred to in paragraph (1)(c) above are—

- (a) to withdraw land from agricultural production for a period of 20 consecutive years from the date of entry into the scheme and to use that land for the purposes of the establishment or improvement of one or more of the following wildlife habitats:—

⁽⁸⁾ O.J. No. L215, 30.7.92, p.85.

⁽⁹⁾ O.J. No.L181, 1.7.92, p.12.

⁽¹⁰⁾ O.J. No.L90, 7.4.94, p.8.

- (i) waterside habitats;
- (ii) upland scrub;
- (iii) damp lowland grassland and marsh communities;
- (iv) dry lowland grassland; or
- (b) to use farming practices compatible with the requirements of the protection of the environment for a period of 10 consecutive years from the date of entry into the scheme and to use that land for the purposes of the establishment or improvement of one or more of the following wildlife habitats:–
 - (i) coastal heath;
 - (ii) damp lowland grassland and marsh communities;
 - (iii) dry lowland grassland.
- (3) In addition, an applicant shall undertake–
 - (a) to observe in relation to each habitat site the management requirements contained in Part II, in the case of an undertaking under paragraph (2)(a) above, or Part III, in the case of an undertaking under paragraph (2)(b) above, of the Schedule relevant to that habitat site as specified in regulation 5; and
 - (b) to manage each habitat site in accordance with a management plan agreed in advance with the Secretary of State.

Conditions of eligibility

4.—(1) An applicant shall be eligible to make an application if at the date of application the applicant is either the lawful occupier of the habitat site or, subject to regulation 6 below, a grazings committee.

- (2) The proposed habitat site shall–
 - (a) satisfy the special criteria for acceptance set out in Part I of the Schedule relevant to that habitat site as specified in regulation 5; and
 - (b) be on land either in agricultural production or set-aside.

Management requirements for and special criteria for acceptance of a habitat site

5. The management requirements referred to in regulation 3(3) and the special criteria for acceptance of a habitat site referred to in regulation 4(2) applicable to each habitat site listed in column 1 below shall be as specified in the Schedule listed opposite that habitat site in column 2 below–

Column 1 Habitat site	Column 2 Schedule
Waterside habitats	Schedules 1 and 6
Upland scrub	Schedule 2
Damp lowland grassland and marsh communities	Schedule 3
Dry lowland grassland	Schedule 4
Coastal heath	Schedule 5

Crofters common grazings

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

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

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

(4) A grazings committee shall give notice of their proposals under paragraphs (1) and (3) above by advertisement or otherwise to the crofters ordinarily resident in the township and sharing in the common grazing, and any such crofter may within one month of the date of such notice make representation in respect of the proposals to the Crofters Commission who may approve them with or without modification or reject them.

Applications for aid

7. An application for aid under these Regulations shall be made in writing at such time and in such form as the Secretary of State reasonably may require and shall include—

- (a) a map of each proposed habitat site and any features of a kind specified in the management requirements contained in Part II or Part III as the case may be of the Schedule relevant to each such habitat site as specified in regulation 5;
- (b) a statement of the area of each proposed habitat site;
- (c) a description of the use or uses of each proposed habitat site during the 12 months prior to the date of application;
- (d) a management plan;
- (e) if required by the Secretary of State, evidence showing the nature of the applicant's estate or interest in each proposed habitat site; and
- (f) the date on which the applicant proposes to assume obligations under the scheme.

Restrictions on acceptance of applications

8.—(1) The Secretary of State shall not accept an application in respect of any habitat site unless he is satisfied that, having regard to the condition of that habitat site and surrounding land at the time of the submission of the application, the use or management of that habitat site in accordance with the proposals contained in the application will provide significant benefit to wildlife.

(2) The Secretary of State shall not accept an application in relation to any land which is occupied by a tenant unless he is satisfied that the tenant—

- (a) in the case of the damp lowland grassland and marsh communities habitat, has written consent from the landlord to his intention to make the application;
- (b) in the case of all other wildlife habitats, has notified the landlord of his intention to make the application.

(3) The Secretary of State may refuse to accept an application in relation to any land where he is satisfied that—

- (a) the use of that land in accordance with the proposals contained in that application would frustrate the purposes of any assistance previously given or to be given out of money provided by Parliament or the European Community; or

- (b) the payment of aid under these Regulations would duplicate any assistance previously given or to be given out of money provided by Parliament or by the European Community.

Change of occupation

9.—(1) Where there is a change of occupation, during the period of the scheme, of the whole or any part of a beneficiary's farm—

- (a) the beneficiary (or, if he has died, his executors) shall within 3 months notify the Secretary of State in writing of the change of occupation, and shall supply to the Secretary of State such information relating to that change of occupation in such form and within such period as the Secretary of State reasonably may determine; and
- (b) subject to the provisions of this regulation, the new occupier of that farm or part may give an undertaking to the Secretary of State to comply, for the remainder of the time for which the original occupier undertook to comply with the Scheme, with the obligations assumed by the beneficiary under an application relating to that farm.

(2) Where there is a change of occupation of part of a farm, the Secretary of State shall determine the extent to which the obligations assumed by the beneficiary relate to that part, having regard to the location of the habitat site or sites.

(3) The Secretary of State shall not accept an undertaking from a new occupier of a farm or part of a farm to comply with the obligations assumed by a beneficiary unless he is satisfied that the new occupier occupies that farm or part as an owner or tenant, or as the executor of the beneficiary.

(4) A new occupier who gives an undertaking to comply with the obligations assumed by the beneficiary shall supply to the Secretary of State such information in such form and within such period following the change of occupation as the Secretary of State reasonably may determine.

(5) Where the Secretary of State has accepted an undertaking from a new occupier to comply with the obligations undertaken by a beneficiary—

- (a) the new occupier shall be deemed to be a beneficiary; and
- (b) his undertaking to comply with the obligations undertaken by the original beneficiary shall be deemed to take effect on the date of the acceptance by the Secretary of State of that undertaking.

(6) Where within 3 months from the date of change of occupation a new occupier has not given an undertaking to comply with the obligations assumed by the original beneficiary, the Secretary of State may—

- (a) withhold the whole or any part of any payments of aid under the scheme due to the original beneficiary; and
- (b) recover from that original beneficiary or his executors the whole or any part of any payments of aid under the scheme already made to him.

(7) Paragraph (6) above shall not apply where the change of occupation of a farm or part of a farm is the result of—

- (a) the compulsory purchase of that farm or part; or
- (b) the death of the original beneficiary; and
 - (i) that original beneficiary occupied that farm or part as a tenant; and
 - (ii) following the death of that original beneficiary the tenancy or lease under which he occupied that farm or part was terminated by the landlord under sections 11(6) or 12(3) of the Agricultural Holdings (Scotland) Act 1991;
- (c) resumption by the landlord under section 21(7)(a) of the Agricultural Holdings (Scotland) Act 1991;

- (d) the termination of a tenancy following the operation of a notice to quit to which the Land Court has consented under section 22(1) of the Agricultural Holdings (Scotland) Act 1991 having been satisfied as to any of the matters specified in section 24(1) of that Act, or the termination of a tenancy following the service of a notice to quit under the provisions of section 22(2)(b) of that Act;
- (e) the resumption of the croft or part thereof which the Land Court has authorised as being for a reasonable purpose in terms of section 20 of the Crofters (Scotland) Act 1993; or
- (f) the resumption of a small landholding or part thereof which the Land Court has authorised as being for a reasonable purpose in terms of section 2 of the Crofters Holdings (Scotland) Act 1886⁽¹¹⁾.

(8) For the purposes of this regulation in its application 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 scheme but does not include a change in the membership of the grazings committee.

Amounts of aid and claims

10.—(1) Subject to regulations 9(6) and 12(1) and (2) payments by way of aid to a beneficiary shall be made annually, in arrear.

(2) The amount of each such payment shall be, in the case of the establishment or improvement of a habitat site listed in column 1 below, the amounts set out opposite that habitat site in column 2 below for undertakings given under regulation 3(2)(a) and in column 3 below for undertakings given under regulation 3(2)(b)–

Column 1 Habitat site	Column 2 Amounts payable for undertakings under regulation 3(2)(a)	Column 3 Amounts payable for undertakings under regulation 3(2)(b)
Waterside habitats	£360 per hectare for arable land, £240 per hectare for permanent improved grassland	–
Upland scrub	£200 per hectare	–
Damp lowland grassland and marsh communities	£335 per hectare	£260 per hectare for arable land, £125 per hectare for permanent improved grassland
Dry lowland grassland	£335 per hectare	£260 per hectare for arable land, £125 per hectare for permanent improved grassland
Coastal heath	–	£125 per hectare

(3) A claim for each annual payment under paragraph (2) above shall be made at such time and in such form and shall contain such information as the Secretary of State reasonably may require.

Obligation to permit entry and inspection

11.—(1) An applicant or beneficiary shall permit any person duly authorised by the Secretary of State, accompanied by such persons acting under his instructions as appear to that authorised

⁽¹¹⁾ 1886 c. 29; section 2 is to be read with the Small Landholders (Scotland) Act 1911 (c. 49), section 19, and the Small Landholders and Agricultural Holdings (Scotland) Act 1931 (c. 44), section 8(1).

person to be necessary for the purpose, at all reasonable hours and on production on demand of some duly authenticated document showing his authority, if so required, to enter upon the farm for the purpose of—

- (a) carrying out any inspection of such farm or any document or record in the possession or under the control of the applicant or the beneficiary relating to, or which the authorised person may reasonably suspect relates to, an application, with a view to verifying the accuracy of any particulars given in an application or claim under regulation 10(3) or in any undertaking made by a new occupier pursuant to regulation 9(1)(b); and
- (b) ascertaining whether the applicant or beneficiary has duly complied with any undertaking given by him under these Regulations.

(2) An applicant or beneficiary shall render all reasonable assistance to the authorised person in relation to the matters mentioned in paragraph (1) above, and in particular shall—

- (a) produce any document or record which may be required by the authorised person for inspection;
- (b) permit the authorised person to take copies or extracts from any such document or record;
- (c) where any such document or record is kept by means of a computer, produce it in a form in which it may easily be read and taken away; and
- (d) at the request of the authorised person, accompany him in making the inspection of any land and identify any area of land which is concerned in any application or in any undertaking given by a new occupier under regulation 9 to comply with the obligations undertaken by the original beneficiary.

Withholding and recovery of aid

12.—(1) Where any person with a view to obtaining the payment of aid under the scheme to himself or any other person makes any statement or furnishes any information which is false or misleading in a material respect, the Secretary of State may withhold the whole or any part of any aid under the scheme payable to that person or to such other person, and may recover the whole or any part of any aid already paid to that person or to such other person.

(2) Where a beneficiary—

- (a) fails without reasonable excuse to comply with any of his obligations under these Regulations; or
- (b) fails without reasonable excuse to permit entry or inspection by an authorised person or to render all reasonable assistance to such authorised person as required by regulation 11,

the Secretary of State may withhold the whole or any part of any aid under the scheme payable to that beneficiary, and may recover the whole or any part of any such aid already paid to him.

(3) Before withholding or recovering any aid under regulation 9(6), or paragraphs (1) and (2) above, the Secretary of State shall—

- (a) give to the beneficiary a written explanation of the reasons for the proposed withholding or recovery;
- (b) afford the beneficiary an opportunity of appearing before and being heard by a person appointed for that purpose by the Secretary of State; and
- (c) consider the report by the person so appointed and supply a copy of the report to the beneficiary.

False statements

13. If any person, for the purposes of obtaining for himself or any other person any aid under the scheme, knowingly or recklessly furnishes information which is false or misleading in a material particular, that person shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

St Andrew's House,
Edinburgh
17th October 1994

Hector Monro
Parliamentary Under Secretary of State, Scottish
Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Regulations 3, 4 and 5

WATERSIDE HABITATS

Regulation 4(2)(a) and 5

PART I

SPECIAL CRITERIA FOR ACCEPTANCE OF ELIGIBLE LAND

1. The habitat site must consist of a strip or strips of land between 6 metres and 20 metres wide.
2. The habitat site must be alongside a watercourse within the watershed of a river named in Schedule 6.
3. The habitat site must be in an area of improved grassland or arable land.
Regulation 3(3) and 5

PART II

MANAGEMENT REQUIREMENTS

1. The farmer shall not use the habitat site for agricultural production and livestock must be excluded.
2. The farmer shall encourage waterside species typical of the locality to develop in the habitat site where natural regeneration can be expected to occur. Where natural regeneration fails or is unlikely, he shall introduce appropriate species typical of the locality with the prior written consent of the Secretary of State.
3. The farmer shall not treat the habitat site with fertiliser (including farmyard manure and slurry), lime, herbicides or pesticides, except for weed wiper or spot control of statutory weeds using non-residual herbicides. With the prior consent of the Secretary of State, other application methods may be used and other plants may also be treated with a non-residual herbicide.
4. The farmer shall specify a mowing regime which shall take into account the interests of wildlife. Cuttings must be removed from the habitat site, not used for silage, hay, or fed to livestock and must not cause pollution.
5. The farmer shall avoid damaging the habitat site by agricultural improvement works, ploughing, new drainage works or cultivations.
6. The farmer shall not damage, destroy or remove dykes, walls, hedges, traditional weatherproof farm buildings or features of historical or archaeological interest or value, lochs, ponds or streams on or adjacent to the habitat site.
7. The farmer shall not manage adjacent land so as to adversely affect the conservation value of the habitat site.

SCHEDULE 2

Regulations 3, 4 and 5

UPLAND SCRUB

Regulation 4(2)(a) and 5

PART I

SPECIAL CRITERIA FOR ACCEPTANCE OF ELIGIBLE LAND

1. The habitat site or, where the site is situated on more than one piece of land, the sum of the areas of such pieces of land, must extend to at least 2 hectares.
 2. The habitat site must be in the less-favoured area.
 3. The habitat site must be adjacent or close to a seed source for scrub vegetation and capable of regeneration, or be an area showing obvious signs of suppressed scrub plants which will recover when grazing is removed.
 4. The habitat site must not be in or adjacent to areas dominated by birch, alder, gorse, or broom.
 5. The habitat site must be in an area of rough grazing.
 6. The habitat site must not contain known archaeological remains which may be damaged by the growth of scrub.
- Regulations 3(3) and 5

PART II

MANAGEMENT REQUIREMENTS

1. The farmer shall not use the habitat site for agricultural production and livestock must be excluded.
2. The farmer shall not treat the habitat site with fertiliser (including farmyard manure and slurry), lime, herbicides or pesticides, except for weed wiper or spot control of statutory weeds using non-residual herbicides. With the prior consent of the Secretary of State, other application methods may be used and other plants may also be treated with a non-residual herbicide.
3. The farmer shall protect the habitat site from damage during muirburn of adjacent heather moorland.
4. The farmer shall avoid damaging the habitat site by agricultural improvement works, ploughing, new drainage works or cultivations.
5. The farmer shall not damage, destroy or remove dykes, walls, hedges, traditional weatherproof farm buildings or features of historical or archaeological interest or value, lochs, ponds or streams on or adjacent to the habitat site.
6. The farmer shall not manage adjacent land so as to adversely affect the conservation value of the habitat site.

SCHEDULE 3

Regulations 3, 4 and 5

DAMP LOWLAND GRASSLAND AND MARSH COMMUNITIES

Regulation 4(2)(a) and 5

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

PART I

SPECIAL CRITERIA FOR ACCEPTANCE OF ELIGIBLE LAND

1. The habitat site or, where the site is situated on more than one piece of land, the sum of the areas of such pieces of land, must extend to at least 1 hectare.
2. The habitat site must be capable of management with raised water levels without adversely affecting nearby agricultural land or causing the erosion of river banks.
3. The habitat site must not contain known archaeological remains which may be damaged by raised water levels.
4. The habitat site must be in an area of improved grassland or arable land.
Regulations 3(3) and 5

PART II

MANAGEMENT REQUIREMENTS

(20 YEAR OPTION)

1. The management requirements set out in this Part of this Schedule shall apply where an applicant has given an undertaking under regulation 3(2)(a)(iii).
2. The farmer shall not use the habitat site for agricultural production and livestock must be excluded.
3. The farmer shall not treat the habitat site with fertiliser (including farmyard manure and slurry), lime, herbicides or pesticides, except for weed wiper or spot control of statutory weeds using non-residual herbicides. With the prior consent of the Secretary of State, other application methods may be used and other plants may also be treated with a non-residual herbicide.
4. The farmer shall specify a mowing regime, which shall take into account the interests of wildlife. Cuttings must be removed from the habitat site, not used for silage, hay, or fed to livestock and must not cause pollution.
5. The farmer shall manage water levels on the habitat site as necessary to enhance the conservation interest of the area.
6. The farmer shall remove invasive species as necessary on the habitat site to deal with the situation where reversion to woodland seems likely.
7. The farmer shall encourage the extension of the reed beds, sedges, rushes and irises where the habitat site is adjacent to such vegetation. Where natural regeneration is unlikely or unsuccessful the farmer shall introduce species typical of the locality.
8. The farmer shall avoid damaging the habitat site by agricultural improvement works, ploughing, new drainage works or cultivations.
9. The farmer shall not damage, destroy or remove dykes, walls, hedges, traditional weatherproof farm buildings or features of historical or archaeological interest or value, lochs, ponds or streams on or adjacent to the habitat site.
10. The farmer shall not manage adjacent land so as to adversely affect the conservation value of the habitat site.
Regulations 3(3) and 5

PART III
MAMANGEMENT REQUIREMENTS
(10 YEAR OPTION)

1. The management requirements set out in this Part of this Schedule shall apply where an applicant has given an undertaking under regulation 3(2)(b)(ii).
2. The farmer shall not treat the habitat site with fertiliser (including farmyard manure and slurry), lime, herbicides or pesticides, except for weed wiper or spot control of statutory weeds using non-residual herbicides. With the prior consent of the Secretary of State, other application methods may be used and other plants may also be treated with a non-residual herbicide.
3. The farmer shall specify a mowing regime which shall take into account the interests of wildlife.
4. The farmer shall manage water levels on the habitat site as necessary to enhance the conservation interest of the area.
5. The farmer shall provide details of any proposals for grazing the habitat site. These must be compatible with the establishment or improvement of the habitat site.
6. The farmer shall remove invasive species as necessary on the habitat site to deal with the situation where reversion to woodland seems likely.
7. The farmer shall encourage the extension of the reed beds, sedges, rushes and irises where the habitat site is adjacent to such vegetation. Where natural regeneration is unlikely or unsuccessful the farmer shall introduce species typical of the locality.
8. The farmer shall avoid damaging the habitat site by agricultural improvement works, ploughing, new drainage works or cultivations.
9. The farmer shall not damage, destroy or remove dykes, walls, hedges, traditional weatherproof farm buildings or features of historical or archaeological interest or value, lochs, ponds or streams on or adjacent to the habitat site.
10. The farmer shall not manage adjacent land so as to adversely affect the conservation value of the habitat site.

SCHEDULE 4

Regulations 3, 4 and 5

DRY LOWLAND GRASSLAND

Regulation 4(2)(a) and 5

PART I
SPECIAL CRITERIA FOR ACCEPTANCE OF ELIGIBLE LAND

1. The habitat site or, where the site is situated on more than one piece of land, the sum of the areas of such pieces of land, must extend to at least 1 hectare.
2. The habitat site must be on light or free draining soil.
3. The habitat site must be close to an area of unimproved grassland which will provide a suitable seed source, or be capable of establishment as described in paragraph 3 of Part III below.

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4. The habitat site must be in an area of improved grassland or arable land.
Regulations 3(3) and 5

PART II

MANAGEMENT REQUIREMENTS

(20 YEAR OPTION)

1. The management requirements set out in this Part of this Schedule shall apply where an applicant has given an undertaking under regulation 3(2)(a)(iv).
2. The farmer shall not use the habitat site for agricultural production and livestock must be excluded.
3. The farmer shall not treat the habitat site or sites with fertiliser (including farmyard manure and slurry), lime, herbicides or pesticides, except for weed wiper or spot control of statutory weeds using non-residual herbicides. With the prior consent of the Secretary of State, other application methods may be used and other plants may also be treated with a non-residual herbicide.
4. The farmer shall establish a sward, where there is no sufficient and proximate seed source, by cultivation and sowing of a grass and wild flower seed mixture appropriate to the locality of the site.
5. The farmer shall specify a mowing regime which shall take into account the interests of wildlife. Cuttings must be removed from the habitat site, not used for silage, hay, or fed to livestock and must not cause pollution.
6. The farmer shall avoid damaging the habitat site by agricultural improvement works, ploughing, new drainage works or cultivations.
7. The farmer shall not damage, destroy or remove dykes, walls, hedges, traditional weatherproof farm buildings, or features of historical or archaeological interest or value, lochs, ponds or streams on or adjacent to the habitat site.
8. The farmer shall not manage adjacent land so as to adversely affect the conservation value of the habitat site.
Regulation 3(3) and 5

PART III

MANAGEMENT REQUIREMENTS

(10 YEAR OPTION)

1. The management requirements set out in this Part of this Schedule shall apply where an applicant has given an undertaking under regulation 3(2)(b)(iii).
2. The farmer shall not treat the habitat site with fertiliser (including farmyard manure and slurry), lime, herbicides or pesticides, except for weed wiper or spot control of statutory weeds using non-residual herbicides. With the prior consent of the Secretary of State, other application methods may be used and other plants may also be treated with a non-residual herbicide.
3. The farmer shall establish a sward, where there is no sufficient and proximate seed source, by cultivation and sowing of a grass and wild flower seed mixture appropriate to the locality of the site.
4. The farmer shall specify a mowing regime which shall take into account the interests of wildlife.

5. The farmer shall provide details of any proposals for grazing the habitat site. These must be compatible with the establishment or improvement of the habitat site.

6. The farmer shall avoid damaging the habitat site by agricultural improvement works, ploughing, new drainage works or cultivations.

7. The farmer shall not damage, destroy or remove dykes, walls, hedges, traditional weatherproof farm buildings or features of historical or archaeological interest or value, lochs, ponds or streams on or adjacent to the habitat site.

8. The farmer shall not manage adjacent land so as to adversely affect the conservation value of the habitat site.

SCHEDULE 5

Regulations 3, 4 and 5

COASTAL HEATH

Regulation 4(2)(a) and 5

PART I

SPECIAL CRITERIA FOR ACCEPTANCE OF ELIGIBLE LAND

1. The habitat site or, where the site is situated on more than one piece of land, the sum of the areas of such pieces of land, shall extend to at least 1 hectare.

2. The habitat site must be adjacent to the coast or to existing coastal heathland and contain suppressed native herbs or heathy shrubs.

Regulations 3(3) and 5

PART II

MANAGEMENT REQUIREMENTS

1. The farmer shall not treat the habitat site with fertiliser (including farmyard manure and slurry), lime, herbicides or pesticides, except for weed wiper or spot control of statutory weeds using non-residual herbicides. With the prior consent of the Secretary of State, other application methods may be used and other plants may also be treated with a non-residual herbicide.

2. The farmer shall specify a mowing regime which shall take into account the interests of wildlife.

3. The farmer shall encourage the natural regeneration of coastal heathland species typical of the area in which the habitat site is situated. Where natural regeneration is unsuccessful he shall introduce appropriate species typical of the locality with the prior written consent of the Secretary of State.

4. The farmer shall provide details of any proposals for grazing the habitat site. These must be compatible with the establishment or improvement of the habitat site.

5. The farmer shall avoid damaging the habitat site by agricultural improvement works, ploughing, new drainage works or cultivations.

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6. The farmer shall not damage, destroy or remove dykes, walls, hedges, traditional weatherproof farm buildings or features of historical or archaeological interest or value, lochs, ponds or streams on or adjacent to the habitat site.

7. The farmer shall not manage adjacent land so as to adversely affect the conservation value of the habitat site.

SCHEDULE 6

Schedule 1

WATERSIDE HABITATS: ELIGIBLE RIVERS

1. Land eligible for waterside habitats must be alongside a watercourse within the watershed of one of the following rivers:–

- (a) Dee,
- (b) Don,
- (c) Spey,
- (d) Tweed.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to Scotland, implement in part Council Regulation (EEC) No.2078/92 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside. They make provision for the payment of aid to farmers who undertake such agricultural production methods. Farmers will either set aside farmland for at least 20 years with a view to its use for purposes connected with the environment pursuant to Article 2(1)(f) or undertake to use other farming practices compatible with the requirements of the protection of the environment and natural resources, as well as maintenance of the countryside and landscape pursuant to Article 2(1)(d) of Council Regulation (EEC) No.2078/92.

The Regulations–

- (a) enable the Secretary of State to make payments of aid to applicants satisfying the conditions of, and applying in accordance with the regulations (regulation 3);
- (b) specify the conditions of eligibility to be satisfied by applicants for aid (regulation 4);
- (c) specify the management requirements and special criteria for the acceptance of a habitat site (regulation 5 and Schedules);
- (d) specify the conditions for the participation of crofters common grazings committees (regulation 6);
- (e) specify the requirements in relation to applications for aid and the documents to accompany such applications (regulation 7);

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- (f) specify the restrictions on the acceptance of applications by the Secretary of State (regulation 8);
- (g) make provision for the payment of aid to a new occupant where there has been a change in the occupation of a farm or part of a farm due to the death of a beneficiary or otherwise (regulation 9);
- (h) specify the period, amount and method of payment of aid (regulation 10);
- (i) confer on authorised persons power of entry for the purposes of the Regulations and require that reasonable assistance be given to them for the exercise of these powers (regulation 11);
- (j) specify circumstances when the Secretary of State may withhold aid or recover payments already made (regulations 9 and 12); and
- (k) create offences and prescribe penalties (regulation 13).