

2010 No. 87

AGRICULTURE

**The Rural Development Contracts (Rural Priorities) (Scotland)
Amendment Regulations 2010**

<i>Made</i>	- - - -	<i>4th March 2010</i>
<i>Laid before the Scottish Parliament</i>		<i>5th March 2010</i>
<i>Coming into force</i>	- -	<i>27th March 2010</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^(a) 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 (EC) No. 834/2007 on organic production and labelling of organic products and repealing Regulation (EEC) No. 2092/91^(b) to be construed as a reference to that Regulation as amended from time to time.

Citation and commencement

1. These Regulations may be cited as the Rural Development Contracts (Rural Priorities) (Scotland) Amendment Regulations 2010 and come into force on 27th March 2010.

Amendment of the Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008

2. The Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008^(c) are amended in accordance with regulations 3 to 8.

Amendment of Regulation 2

3. For the definition of “capital items”, omit “and includes the outcome plan in regulation 5,”.

(a) 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) and was amended by the European Union (Amendment) Act 2008 c.7, Schedule 1(1), paragraph 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 and was amended by the European Union (Amendment) Act 2008, Schedule 1(1), paragraph 1.

(b) O.J. No. L 189, 20.7.2007, p.1 as amended by Council Regulation (EC) No. 967/2008 O.J. No. L 264, 3.10.2008, p.1.

(c) S.S.I. 2008/100 as amended by S.S.I. 2008/233, 2009/1, 2009/233; 2009/335 and 2009/411.

Revocation of regulation 5

4. Regulation 5 (outcome plans) is revoked.

Amendment to regulation 15

5. In regulation 15, omit paragraph (1) and substitute the following—

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

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

Amendment to Schedule 1

6. In Schedule 1 (interpretation of schedules)—

- (a) after the definition of ‘arable land’, insert—

““BASC Codes of Practice on Shooting, Lamping and Trapping of Pest Animals” means the Code of Good Shooting Practice 2008, the Code of Practice on Lamping 2004, the Code of Practice on Trapping of Pest Mammals 2007 and the Code of Practice on the Trapping of Pest Birds 2001 produced by the British Association for Shooting and Conservation;”;

- (b) for the definition of “Council Regulation 834/2007” substitute—

““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 from time to time;”.

- (c) after the definition of “fully organic”, insert—

““General Licence” means a licence granted by the Scottish Ministers to allow an individual to take or kill birds or eggs or nests of specific named species for the licensable purposes listed in section 16 of the Wildlife and Countryside Act 1981(a);”;

and

- (d) in the definition of “organic production”, omit “Council Regulation 2092/91” and insert “Council Regulation 834/2007”.

Amendment to Schedule 2

7. In Schedule 2 (rural priorities options), Part I (option, activities and eligibility conditions and rates of payment)—

- (a) omit entries for options 3 (nutrient management plan), 4 (soil and water management programme) and 73 (production of a collaborative local development strategy);

(a) 1981 c.69; section 16 was amended by the Natural Environment and Rural Communities Act 2006 c.16, Schedule 11(1), paragraph 72(2).

- (b) in option 6 (manure/slurry storage and treatment)-
 - (i) in column 2, at paragraph (1)(b)(ii) after “biogas” insert “(including anaerobic digestion)”;
 - (ii) in column 3, for “40%” substitute “50%”; and
 - (iii) in column 3, for “50%” substitute “60%”.
- (c) in option 24 (mammal and bird control), omit ‘Open’ in column 2 at paragraph (3)(a);
- (d) in option 57 (specialist agri environment plan), in column 2, omit paragraph (3);
- (e) in option 60 (woodland creation)—
 - (i) in column 3, for “70%” substitute “80%”; and
 - (ii) in column 3, for “80%” substitute “90%”;
- (f) in option 74 (removal of vegetation/debris from SSSI Sites notified for their geological features)—
 - (i) in column 2, at paragraph (2), before “SSSI Sites”, insert “or adjacent to”;
 - (ii) in column 2, at paragraph (2), omit paragraphs (a) and (b) and insert “Sites have been assessed by SNH as being in, or at risk of falling into, unfavourable condition either because of living vegetation or accumulated debris is obscuring the site’s special interest or because root growth may adversely affect the geological interest.”;
 - (iii) in column 2, for paragraph (3) substitute—
 - “(3) A beneficiary must—
 - (a) submit, with an application to the Scottish Ministers, a management plan agreed with SNH detailing-
 - (i) the current conditions of the special features, including a photographic record;
 - (ii) an explanation of the actions, methods and timing to be used including an assessment of the positive effect on each special feature on the site; and
 - (b) on completion of the works, submit a report to the Scottish Ministers which shall include-
 - (i) a record showing the completion of the agreed outcomes;
 - (ii) a photographic record showing the condition of the site following completion of the works;
 - (iii) a record of the time spent removing the vegetation/debris from the site; and
 - (iv) details of any other agreed costs incurred.”.
 - (iv) in column 3, insert at the end “Up to £11,232.88.”.
- (g) in option 75 (erosion control)—
 - (i) for column 2 substitute—
 - “(1) A beneficiary is eligible for payment under this option on, or adjacent to, SSSI and European sites where the qualifying interests are in, or at risk of falling into unfavourable condition due to the levels of burrowing animal activity.
 - (2) The beneficiary must—
 - (a) submit, with an application to the Scottish Ministers, a management plan agreed with SNH detailing—
 - (i) the current condition of the special features, how the condition of these features is being put at risk by burrowing animals and the outcomes the proposal will deliver;
 - (ii) a photographic record of the current condition of the site and burrows;
 - (iii) a 10,000 OS scale map showing the area containing active burrows and proposed locations of control devices;

- (iv) an estimate of the density and numbers of burrowing animals at the start and end of the programme;
 - (v) the methodology including an assessment of the positive effect on each of the special features;
 - (vi) information on the most appropriate timing for the control activity including number of control devices to be deployed;
 - (vii) proposed collaboration with neighbouring land managers; and
 - (viii) six figure grid references listing the locations of control effort;
 - (b) on completion of the works, submit a report to the Scottish Ministers which must include—
 - (i) a 10,000 scale OS map showing the area that has been controlled and the hectare covered;
 - (ii) the number of animals trapped or shot and the number of burrows gassed and the date of the control;
 - (iii) a record showing completion of the agreed outcomes; and
 - (iv) a photographic record showing the condition of the site following completion;
 - (c) where control of targeted animals is required—
 - (i) undertake in a legal and humane manner, live trapping with fen or box traps, gassing with moisture activated compounds and/or shooting and lamping; and
 - (ii) comply with all relevant General Licences and the BASC Codes of Practice on Shooting, Lamping and Trapping of Pest Mammals and Birds.
- (3) 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.”;
- (ii) in column 3, after “Up to 100% of actual costs”, insert, “with a limit of £5,616.44 for undertaking the control programme, net of income from the sale of burrowing animal carcasses. Sale receipts for any such sale of burrowing animals must be submitted with the claim.”;
 - (h) in option 76 (renewable energy powered pumps for water troughs)—
 - (i) in column 2, at paragraph (2)—
 - (aa) for “pump” in both cases substitute “water pumping system”;
 - (bb) insert at the end “Payment may be made for the power supply, pump, reservoir tank, battery and associated switches and cabling.”;
 - (ii) in column 2, at paragraph (3), for “single pump” substitute “water pumping system”;
 - (iii) in column 3, insert at the end “Up to £2,500 for a system supplying individual troughs and up to £7,500 for a multiple trough system.”;
 - (i) in option 77 (capital works required for features for which SSSI Sites and European sites were notified to help bring them into favourable condition)—
 - (i) in column 1, for “Capital works required for features for which SSSI Sites and European sites were notified to help bring them into favourable condition” substitute “Capital works required for SSSI and European Site features which enhance the public amenity value of those features”;
 - (ii) in column 2, for paragraph (2) substitute—

“(2) (a) A beneficiary is eligible for payment under this option on land on SSSI Sites and European site features.

 - (b) the list of eligible capital items are set out in table B in Schedule 3.
 - (c) the items contained in the table referred to in paragraph (b)—
 - (i) may be undertaken only once on each area of land; and
 - (ii) are subject to the following specifications:—

- (aa) where the standard cost capital items rate is to be exceeded, beneficiaries must provide full justification to explain why this is necessary;
- (bb) where the standard cost capital items rate is to be exceeded, proposed actions must be accompanied by at least two quotes.”;
- (iii) in column 3, insert at the end, “Up to a maximum of £7,000 per hectare or up to £136,986 whichever is the greater”.

Amendment to Schedule 3

8. In Schedule 3 (standard payment rates for capital items)—

- (a) after the words “programme guidance”, insert the heading ‘Table A’;
- (b) omit the entries at columns 1 and 2 for the first two capital items (livestock tracks, gates and river crossing – impacts on diffuse pollution) and (sheep management – additional sheep movement to achieve habitat outcomes);
- (c) at the end of the table, insert the following entry—

Environmental audit	50% of costs up to a maximum of £200 per plan.
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- (d) after the table, insert table B (eligible capital items available through capital item Option 77) set out in the Schedule to these Regulations.

Transitional provisions

9. Nothing in these Regulations has effect in relation to any contract issued in respect of collaborative local development strategies where the contract is entered into before 27th March 2010.

RICHARD LOCHHEAD
A member of the Scottish Executive

St Andrew’s House,
Edinburgh
4th March 2010

SCHEDULE

Regulation 8(d)

Eligible capital items available through capital item Option 77

Table B—

Eligible Capital Items Available Through Capital Item Option 77

<i>Capital Item</i>	<i>Maximum Actual Cost</i>
Primary treatment of bracken	Up to £400 per hectare of infested land
Manual eradication of rhododendron	Up to £7,000 per hectare of infested land
Mechanised (and / or chemical) eradication of rhododendron	Up to £1,700 per hectare of infested land
Eradication of scrub / woody vegetation:	
Light vegetation	Up to £1,800 per hectare
Intermediate vegetation	Up to £2,550 per hectare
Heavy vegetation	Up to £3,750 per hectare
Removal from site of the cut shrub / woody vegetation: light vegetation cover	Up to £1,000 per hectare
Removal from site of the cut shrub / woody vegetation: intermediate vegetation cover	Up to £2,100 per hectare
Removal from site of the cut shrub / woody vegetation: heavy vegetation cover	Up to £2,900 per hectare
Stock fence	Up to £8 per metre
Enhancing / modifying a stock fence (in Black Grouse and Capercaillie core areas)	Up to £4 per metre
Upgrading stock to deer fence	Up to £5.51 per metre
Scare or temporary fencing	Up to £3 per metre
Rabbit proofing – existing or new stock / deer fence	Up to £3.79 per metre
Deer fence	Up to £13.79 per metre
Enhancing / modifying a deer fence (in Black Grouse and Capercaillie core areas)	Up to £14.11 per metre
Conversion of deer fence to stock fence (in Black Grouse and Capercaillie core areas)	Up to £4 per metre
Fence removal	Up to £4 per metre
Gate:	
For stock fence	Up to £150 each
For deer fence	Up to £255 each
Stock bridge for bog management:	
Small bridge	Up to £340 per bridge
Large bridge (for ditch wider than 1.5m)	Up to £2,000 per bridge
Sand blow fencing	Up to £20 per metre

<i>Capital Item</i>	<i>Maximum Actual Cost</i>
Planting of marram grass into areas threatened with erosion	Up to £16 per square metre
Creation or restoration of a pond	Up to £6 per square metre
Ditch blocking with plastic piling dams:	
Small ditches (up to 0.5m wide & deep)	Up to £120 per dam
Medium ditches (between 0.5m and 1m wide & deep)	Up to £240 per dam
Large ditches (between 1m and 2m wide and 0.5m and 1m deep)	Up to £1027.40 per dam

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008 (“the 2008 Regulations”), which introduce measures to supplement Council Regulation (EC) No. 1698/2005 (O.J. No. L 277, 21.10.2005, p.1), as amended, (“the Council Regulation”) laying 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 (O.J. No. L 368, 23.12.2006, p.15) and 1975/2006 (O.J. No. L 368, 23.12.2006, p.74) laying down detailed rules for the application of the Council Regulation.

The 2008 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 as set out in Schedule 3.

The Regulations amend the 2008 Regulations by removing outcome plans (regulation 3).

The Regulations add new definitions to Schedule 1, including a reference to the BASC Codes of Practice on Shooting, Lamping and Trapping of Pest Animals. Copies of these Codes of Practice may be obtained from BASC, Head Office, Marford Mill, Rossett, Wrexham, LL12 0HL or from the website at <http://www.basc.org.uk/en/codes-of-practice>. Information on General Licences relating to these Regulations is available in the programme guidance issued by the Scottish Ministers or online at www.scotland.gov.uk.

The definition of Council Regulation (EC) No. 834/2007 is amended to make it clear that the reference to this instrument is a reference to that community instrument as amended from time to time. Relevant amendments made to this instrument will be available at <http://eur-lex.europa.eu/en/index.htm> and the Rural Priority Options on the government website at www.scotland.gov.uk will be updated accordingly.

Rural Priority Options 3, 4 and 73 are omitted from Schedule 2 to the 2008 Regulations and Rural Priority Options 6, 24, 57, 60, 74, 75, 76 and 77 in Schedule 2 are amended (regulation 7).

Schedule 3 is also amended as two capital items (livestock tracks, gates and river crossing – impacts on diffuse pollution) and (sheep management – additional sheep movement to achieve habitat outcomes) are removed and a new capital item (environmental audit) is introduced. A new Table B is also inserted to give effect to the eligible capital items available through capital item Option 77 (regulation 8).

No Regulatory Impact Assessment has been prepared for this instrument as it has no impact on the cost of business.

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