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SCOTTISH STATUTORY INSTRUMENTS

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**2003 No. 177**

**AGRICULTURE**

**The Rural Stewardship Scheme  
(Scotland) Amendment Regulations 2003**

<i>Made</i>	- - - -	<i>11th March 2003</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>11th March 2003</i>
<i>Coming into force</i>	- -	<i>1st April 2003</i>

The Scottish Ministers, in exercise of the powers conferred by section 98(1) and (2) of the Environment Act 1995<sup>(1)</sup> and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Rural Stewardship Scheme (Scotland) Amendment Regulations 2003 and shall come into force on 1st April 2003.

**Amendment to the Rural Stewardship Scheme (Scotland) Regulations 2001**

2.—(1) The Rural Stewardship Scheme (Scotland) Regulations 2001<sup>(2)</sup> are amended in accordance with the following paragraphs of this regulation.

(2) In regulation 2(1) (interpretation), for the definition of “application for aid” there is substituted—

““application for aid” means an application for aid under these Regulations and “application” shall be construed accordingly;”.

(3) In regulation 9(2)(b) (claims and payment) for “upon completion of the work” there is substituted “in instalments (payable, subject as aftermentioned, at such times and at such rates as may be determined in accordance with the Rural Development Plan approved under the Council Regulation), the first instalment to be paid upon approval of an application for aid in accordance with regulation 7, except that where such approval has been given before 1st April 2003, payment shall be made upon completion of the work”.

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(1) 1995 c. 25. Section 98(1) was amended by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I.1999/1820), Schedule 2, paragraph 120(7). See definition of “appropriate Minister” in section 98(5). The functions of the Secretary of State were transferred to Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). The requirement to obtain the consent of the Treasury was removed by section 55 of that Act.

(2) S.S.I.2001/300.

(4) For regulation 14(5) (powers of recovery etc. of the Scottish Ministers) there is substituted—

“(5) The powers conferred on the Scottish Ministers by paragraphs (2), (3) and (4) shall be exercisable by a notice served on the applicant and in paragraph (4) “specify” means specify in such a notice.

(6) Section 123 of the Environment Act 1995 (provisions relating to the service of documents) shall apply to the service of a notice under this regulation as it applies to the service of documents under that Act.”.

(5) In Schedule 2 (management activities) after item 31 there is inserted—

<p>“<b>32.</b> Management of ancient wood pasture</p>	<p>Sites currently listed in and candidate sites for the “Inventory of Ancient Wood Pasture in Scotland” (maintained by Scottish Natural Heritage) will be eligible. 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.</p>	<p>(a) Where the open pasture element of the wood pasture is grassland, improved or unimproved, on the inbye—</p> <p style="padding-left: 20px;">Option 1</p> <p style="padding-left: 40px;">(i) Livestock must be excluded for 6 consecutive weeks between 1st April and 15th June (inclusive);</p> <p style="padding-left: 40px;">(ii) At other times, grazing levels must be set to maintain an average sward height of between 5 and 20 centimetres, subject to a maximum annual stocking density of 0.75 livestock units per hectare;</p>
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OR

Option 2  
(i) Where the aim of this prescription would not be achieved by adopting option 1, a livestock management and grazing regime must be set out in a grazing plan to be agreed with the Scottish Ministers. Stocking rates must be set to maintain an average sward height of between 5 and 20 centimetres subject to a maximum annual stocking density of 0.75 livestock units per hectare. Where such an alternative management regime is proposed,

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evidence to support its adoption must accompany the application;

AND, for both options–

(i) Pesticides, lime, artificial fertiliser, farmyard manure or slurry must not be applied to the site. However, herbicides may be applied to control injurious weeds (as defined in the Weeds Act 1959) using a weed wiper, spot treatment or hand sprayer;

(ii) Any topping must not be carried out before 31st July;

(iii) The site must not be used for supplementary feeding of stock;

- (iv) Where planting of small trees will serve to extend or enhance this habitat, species appropriate to the site and, where available, of local provenance must be used;
- (v) Newly planted trees or any successful regeneration must be protected 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) Wooden post-and-rail fencing or metal

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tree  
guards  
should be  
erected  
where  
required  
to  
maintain  
and  
prolong  
the life of  
individual  
veteran  
trees;

(vii) Provision  
must also  
be made  
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—

(i) Livestock must  
be excluded  
between 1st  
November and  
28th February;

(ii) At other times,  
grazing levels  
should be set  
to maintain  
an average  
sward height of  
between 5 and  
20 centimetres  
and must not  
exceed 0.3

- livestock units per hectare;
- (iii) The site must not be used for supplementary feeding of stock;
  - (iv) Where planting of small trees will serve to extend or enhance this habitat, species appropriate to the site and, where available, of local provenance must be used;
  - (v) Newly planted trees or any successful regeneration must be protected 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) Wooden post-and-rail fencing or metal tree guards should be erected where required to maintain and prolong the life of individual veteran trees;

- (vii) Provision must also be made through a deer control plan, agreed with the Deer Commission for Scotland, for the control of deer grazing;
- (viii) Pesticides, lime, artificial fertiliser, farmyard manure or slurry must not be applied to the site. However, herbicides may be applied to control injurious weeds (as defined in the Weeds Act 1959) using a weed wiper, spot treatment or hand sprayer.
- 33. Spring cropping**      A site comprising arable land not in a Less Favoured Area subject to a maximum area per undertaking equal to the largest area of the Arable Area Payments Regulations 1996<sup>(3)</sup> eligible winter crop grown on the unit or units concerned in the 3 years prior to the year of application or 20 hectares, whichever is the lesser.
- (a) Ploughing, cultivations and the spreading of fertiliser may only take place between 28th February and 15th May;
- (b) Between harvest and 28th February, pesticides may be applied only with the prior written agreement of the Scottish Ministers;
- (c) To maintain a similar area of cropped land in each year of the plan. Minor adjustments to

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(3) S.I. 1996/3142, amended by S.I. 1997/2969, S.I. 1998/3169 and S.I. 1999/8.

this area may be made to allow for differences in field sizes, provided that the Scottish Ministers are given details at application stage of the field sizes.”.

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(6) In Schedule 3 (capital activities) after item 3(h) there is inserted—

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- (ha) Marking of a deer fence to reduce bird collision. In areas where black grouse and capercaillie occur, to make the fence more visible and thus reduce the number of collisions, use either—
- (i) a double strip of orange barrier netting, each strip approximately 45 centimetres in width. Both strips must be secured with pig rings or wire twists at intervals of approximately 30 centimetres, on the upper and lower edges. The top of the upper strip should reach the top strand of the fence. The top of the lower strip should reach the middle strand of the fence; or
  - (ii) other fence marking design approved by the Scottish Ministers for this purpose.”.
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(7) In Schedule 4 (rates of payment for activities)—

- (a) in Part I (management activities)—
- (i) for item 5.4 there is substituted—

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**“5.4. Management of hedgerows. £5,000 per hectare (£0.50 per square metre).”;** and

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- (ii) after item 9.2 there is inserted—

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**“10. Management of ancient wood pasture. £30 per hectare.**

**11. Spring cropping. £115 per hectare.”;** and

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- (b) in Part II (capital activities), after item 3(h) there is inserted—

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- (ha) Marking of a deer fence to reduce bird collision. £0.50 per metre.”.
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Pentland House, Edinburgh  
11th March 2003

*ROSS FINNIE*  
A member of the Scottish Executive

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## EXPLANATORY NOTE

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

These Regulations amend the Rural Stewardship Scheme (Scotland) Regulations 2001 (“the principal Regulations”), which implemented Commission Regulation (EC) No. 1750/1999 (O.J. No. L 214, 13.8.99, p.31) on support for rural development from the European Agricultural Guidance and Guarantee Fund.

The principal Regulations provide for payments of aid to be made to any person who enters into an undertaking with the Scottish Ministers to comply with the general environmental requirements set out in Schedule 1 and to carry out, or as the case may be, to carry out and maintain, at least one of either the management activities set out in Schedule 2 or the capital activities set out in Schedule 3 to the principal Regulations.

These Regulations—

- (a) add to Schedule 2 (management activities) the activities “management of ancient wood pasture” and “spring cropping” (regulation 2(5));
- (b) add to Schedule 3 (capital activities) the activity “marking of deer fence to reduce bird collision” (regulation 2(6));
- (c) substitute in Schedule 4 (rates of payment for activities) a new rate of payment for management of hedgerows (regulation 2(7)); and
- (d) add to Schedule 4 rates of payment for management of ancient wood pasture, spring cropping and marking of deer fence (regulation 2(7)).

These Regulations also amend regulation 9 of the principal Regulations (claims and payment) to provide that payments for capital activities are to be made in instalments (regulation 2(3)).