Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Land Management Contracts (Menu Scheme) (Scotland) Regulations 2005. 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) View outstanding changes*

SCOTTISH STATUTORY INSTRUMENTS

2005 No. 225

AGRICULTURE

The Land Management Contracts (Menu Scheme) (Scotland) Regulations 2005

Made - - - -	*21st April 2005*
Laid before the Scottish Parliament - - - -	*22nd April 2005*
Coming into force - -	*15th May 2005*

The Scottish Ministers in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Land Management Contracts (Menu Scheme) (Scotland) Regulations 2005 and shall come into force on 15th May 2005.

(2) These Regulations extend to Scotland only.

Commencement Information

I1 Reg. 1 in force at 15.5.2005, see **reg. 1(1)**

Interpretation

2.—(1) In these Regulations–

"1911 Act" means the Small Landholders (Scotland) Act 1911(**2**);

"1991 Act" means the Agricultural Holdings (Scotland) Act 1991(**3**);

"1993 Act" means the Crofters (Scotland) Act 1993(**4**);

(**1**) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). 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.

(**2**) 1911 c. 49.

(**3**) 1991 c. 55.

(**4**) 1993 c. 44.

"2003 Act" means the Agricultural Holdings (Scotland) Act 2003(**5**);

"5 year commitment" means the applicant must undertake to carry out, or carry out and maintain, the activities (or at least one activity) in respect of a relevant Menu Option in Schedule 1 and an undertaking to be granted under regulation 4(2) for 5 scheme years and 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 the tenant, to assume the obligations under their activities or an undertaking to be granted under regulation 4(2) as specified in the application for aid (in the case where the tenant's tenancy has ended, when regulation 12 shall apply); or

(b) the tenant of the eligible land who is in lawful actual occupation of that land under a lease–

(i) which will run at least until the end of the period of 5 years commencing on the date the applicant assumes the obligations under the undertaking to be granted under regulation 4(2) as specified in the application;

(ii) with security of tenure by virtue of any statutory provision until the end of that period; or

(iii) where the tenant has jointly with the landlord undertaken to assume the obligations under their activities or an undertaking to be granted under regulation 4(2) as specified in the tenant applicant's application for aid until the end of that period (in which case regulation 12 shall apply);

"the Act of Accession" means the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded(**6**);

"activities" means the activities referred to in regulation 4(2) and column 2 of Schedule 1 and "activity" shall be construed accordingly;

"agri environment scheme" means an arrangement which is or was–

(a) regulated by statutory instrument providing for the payment of aid to persons who enter into an agreement in relation to the use or management of land; and

(b) approved by the Commission of the European Communities under either–

(i) Article 44 of Council Regulation 1257/1999 as part of a rural development plan drawn up pursuant to Article 41 of that Regulation and containing measures pursuant to Articles 22 to 24 of that Regulation; or

(ii) Article 7 of Council Regulation (EEC) No. 2078/1992 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside(**7**);

"applicant" means a person who has made an application for aid in accordance with regulation 3 of these Regulations and in regulations 13 to 18 includes a person whose application for aid has been accepted and a person who takes on an undertaking on a change of occupation as provided in regulation 12;

(**5**) 2003 asp 11.
(**6**) O.J. No. L 236, 23.9.2003, p.33.
(**7**) O.J. No. L 215, 30.7.1992, p. 85, as amended by Commission Regulation (EC) No. 2772/1995 (O.J. No. L 288, 1.12.1995, p.35), and repealed by Council Regulation 1257/1999.

"application for aid" means an application for aid under these Regulations;

"authorised person" means a person who is authorised by the Scottish Ministers under regulation 13, either generally or specifically, to act in relation to matters arising under these Regulations;

"Council Regulation 1257/1999" means Council Regulation (EC) No. 1257/1999(**8**) on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations, as amended by Commission Regulation (EC) No. 1783/2003(**9**), the Act of Accession(**10**), Council Regulation (EC) No. 567/2004(**11**) and Council Regulation (EC) No. 583/2004(**12**);

"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 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(**13**), as amended by Commission Regulation (EC) No. 239/2005(**14**);

"Commission Regulation 817/2004" means Commission Regulation (EC) No. 817/2004 laying down detailed rules for the application of Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF)(**15**);

"Council Regulation 1782/2003" means 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(**16**), as amended by Council Regulation (EC) No. 21/2004(**17**), Council Regulation (EC) No. 583/2004(**18**), Council Regulation (EC) No. 864/2004(**19**) and Commission Regulation (EC) No. 118/2005(**20**);

"eligible land" means land which is eligible in accordance with regulation 7;

"IACS Regulations" means the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005(**21**);

"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,

(**8**) O.J. No. L 160, 26.06.1999, p.80.
(**9**) O.J. No. L 270, 21.10.2003, p.70.
(**10**) See Annex II of the Act of Accession, part 6, paragraph 26.
(**11**) O.J. No. L 90, 27.3.2004, p.1.
(**12**) O.J. No. L 91, 30.3.2004, p.1.
(**13**) O.J. No. L 141, 30.4.2004, p.18.
(**14**) O.J. No. L 42, 12.2.2005, p.3.
(**15**) O.J. No. L 153 , 30.4.2004, p.30.
(**16**) O.J. No. L 270, 21.10.2003, p.1.
(**17**) O.J. No. L 5, 9.1.2004, p.8.
(**18**) O.J. No. L 91, 30.3.2004, p.1.
(**19**) O.J. No. L 206, 9.6.2004, p.20.
(**20**) O.J. No. L 24, 27.1.2005, p. 15.
(**21**) S.I.2005/218.

and, where appropriate, includes a head tenant;

"relevant competent authority" has the meaning given to it in regulation 5 of the IACS Regulations;

"scheme year" means the year commencing on the last date for submission of the single application under regulation 6 of the IACS Regulations and Article 20 of Commission Regulation 796/2004 and having the same period as the IACS year;

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

"tenant" means–

(a) in the case of an agricultural lease constituting a 1991 Act tenancy within the meaning of the 2003 Act, the tenant within the meaning of section 85 of the 1991 Act;

(b) in the case of a lease constituting a limited duration tenancy or short limited duration tenancy under the 2003 Act, the tenant within the meaning of section 93 of that Act;

(c) in the case of a croft within the meaning of the 1993 Act, the crofter within the meaning of section 3(3) of that Act;

(d) in the case of a holding within the meaning of the 1911 Act to which the 1991 Act does not apply, the landholder within the meaning of section 2(2) of the 1911 Act,

and, where appropriate, includes a sub tenant;

"undertaking" means an undertaking mentioned in regulation 4(2).

(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(**22**) 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, shall 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 1 and 2 and not defined in paragraph (1) shall be construed in accordance with Schedule 3.

Commencement Information

I2 Reg. 2 in force at 15.5.2005, see **reg. 1(1)**

Applications for aid

3.—(1) Subject to paragraph (4), an application for aid shall be made in writing to such authority, at such time, in such form and shall contain such information as the Scottish Ministers may reasonably require.

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

(**22**) 2000 c. 7.

(3) Where an application for aid is made in respect of a scheme year, applicants must also submit a single application to a relevant competent authority in accordance with the IACS Regulations for the IACS year which begins in the calendar year in which that scheme year begins.

Commencement Information
I3 Reg. 3 in force at 15.5.2005, see **reg. 1(1)**

Payment of aid

4.—(1) Subject to the provisions of these Regulations, the Scottish Ministers may make payment of aid in respect of an undertaking to which these Regulations apply, to an applicant–

(a) who is the owner or tenant of the eligible land to which such an undertaking relates and is in lawful actual occupation of that land or, in the case of an owner, has undertaken, jointly with the tenant, to assume the obligations under their activities or any undertaking to be granted under paragraph (2); and

(b) whose application for aid has been accepted by the Scottish Ministers.

(2) These Regulations apply to an undertaking in writing by the applicant to carry out, or as the case may be, to carry out and maintain, at least one of the activities referred to in Schedule 1.

Commencement Information
I4 Reg. 4 in force at 15.5.2005, see **reg. 1(1)**

Maximum amount of aid payable

5. The maximum amount of aid payable to an applicant under these Regulations in respect of a scheme year shall be calculable as the sum of the allowance allocated to each individual whole hectare of land in Scotland comprised in the agricultural parcels declared in the single application submitted to the relevant competent authority by the applicant in accordance with Article 22 of Council Regulation 1782/2003 and Article 12(1)(d) of Commission Regulation 796/2004 as set out in the following table:

Hectare of land	*Allowance per hectare (£)*
Hectare 1 to hectare 10	75
Hectares over 10 to hectare 100	30
Hectares over 100 to hectare 1000	1
Hectares over 1000	0.1

Commencement Information
I5 Reg. 5 in force at 15.5.2005, see **reg. 1(1)**

Restrictions on acceptance of applications for aid

6.—(1) The Scottish Ministers shall not accept an application for aid–