

THE RURAL STEWARDSHIP SCHEME

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introduction



Photo: L. Gill - SNH

Introduction

The landscape we have inherited in Scotland and the diversity of life within our country are the product of several billion years of geological activity and man's activities in relatively recent times since the retreat of the last glaciers from the Highland glens. The importance of achieving a balance between the sensitive management of our natural heritage in order to maintain and enhance that biodiversity, sustaining a viable agricultural industry and ensuring the long-term viability of rural communities is now well recognised.

In Scotland, schemes to encourage the adoption of environmentally-friendly farming practices have operated for a number of years now. Examples include the Environmentally Sensitive Areas Schemes which were first introduced in 1987, the Organic Aid Scheme which was introduced in 1994, and the Countryside Premium Scheme which was introduced in 1997.

This Booklet describes the latest scheme, the Rural Stewardship Scheme, which covers the whole of Scotland and supersedes the Environmentally Sensitive Areas and Countryside Premium Schemes.

The legislative bases for the Rural Stewardship Scheme are Council Regulation (EC) 1257/1999 for management payments, which are co-financed by the EC and the Scottish Executive and the Environment Act 1995 for capital items, which are entirely funded by the Scottish Executive.

Please take time to read the Booklet carefully before reaching a decision on whether to apply to join the RSS. Additional important information is contained in the folder that accompanies this booklet.



Photo: P&A Macdonald - SNH

Section 1

About the Rural Stewardship Scheme

1.1 What is the Rural Stewardship Scheme?

The Rural Stewardship Scheme (RSS) is an Agri-environment Scheme designed to encourage farmers, crofters and common grazings committees to adopt environmentally friendly practices and to maintain and enhance particular habitats and landscape features.

1.2 What is the role of the RSS?

The potential for agri-environment schemes to contribute to rural development is recognised by the fact that aid for such measures is the only mandatory element of the ECs Rural Development Regulation.

The RSS is expected to contribute to the achievement of a wide range of rural policy objectives, for example the delivery of demonstrable benefits to the environment and biodiversity (which have the potential to produce wider benefits e.g. through “green” tourism), contributing to farm income (which may help “pump prime” other economic activity, or support continuing of existing activities), providing employment opportunities for contractors and supporting the retention or development of rural skills such as dyking or hedge management.

1.3 How does the Scheme work?

If you decide to apply to join the Scheme and your application is accepted, in exchange for receiving payments you must agree to:

- Manage specified areas of land and undertake capital works in accordance with the requirements of the options you have chosen; and
- Follow certain General Environmental Conditions and the Standard of Good Farming Practice which apply over the whole of your land.

1.4 Do I have to join?

No – as with all agri-environment schemes run by the Department, participation is entirely voluntary.

Section 2 Eligibility

2.1 Is my business eligible to make an application?

An eligible business must occupy and have control over agricultural land. Farmers, crofters or grazing clerks in this category are eligible to apply. A landlord can apply only for land that is in hand or let out on a seasonal basis. The participant will be responsible for ensuring all Scheme requirements are met for at least 5 years. If any land included in your agreement is leased out on a seasonal basis, you will be responsible for ensuring that the Scheme requirements are met on that land.

The eligibility criteria used to define an eligible business under IACS-related schemes will be used to determine the eligibility of the agricultural business. It is not necessary to have applied for or to intend to apply for any IACS

schemes to be eligible under RSS. All agricultural businesses without a BRN will have one allocated for RSS purposes.

For the purposes of RSS, “agriculture” is defined in the Scheme Regulations as including “horticulture, fruit growing, seed growing, dairy farming, livestock breeding or keeping, the use of land as grazing land, meadowland, osier land, reed beds, market gardens and nursery grounds”.

This means, for example, that land used as an orchard would be eligible, but that land used exclusively for grazing horses kept for non-agricultural purposes, and no other livestock, would be ineligible.

2.2 What about Crofters’ Common Grazings?

Grazing Clerks or others acting on behalf of a Grazings Committee can apply in respect of Common grazings in addition to individual crofters who may apply in respect of their individual croft lands. There are additional requirements for applications on behalf of Common Grazings Committees. For more details, please refer to the next Section of this booklet.

2.3 What if I have already joined another Agri-environment Scheme?

If you have already joined another agri-environment scheme, you can also apply to join the RSS but you cannot receive annual management payments for the same management on the same land from both Schemes.

Section 3

Making an application?

3.1 How do I apply?

If, after reading the booklet, you decide to apply to join the Scheme, you should submit a completed application form and Environmental Audit proforma to your local SERAD office. If you wish to undertake any of the moorland management options, your local SERAD office will be happy to provide you with a copy of the Moorland Management Plan proforma. Staff at your local SERAD office will also be pleased to provide any further information you require about the Scheme. The address and telephone number for each of the local SERAD offices is given at Appendix 3 of this booklet.

3.2 Can the application cover more than one unit within the IACS business?

An application can involve one or more individual units within an IACS business but it must relate to the whole unit or units that are managed as one in functional terms. Artificial sub-divisions of management units will not be accepted.

The IACS business can submit more than one application but each IACS business will be subject to one set of hectareage limits. Consequently, if an IACS business submits more than one application, these added together will be subject to the appropriate hectareage limits.

The General Environmental Conditions and the Standard of Good Farming Practice apply to the whole of the

farm, croft or common grazings entered into the RSS. (see Part 2, Sections 1 and 2 for more detail).

3.3 Do I need to inform anyone else if I apply?

If you are a tenant, you must notify your landlord of your intention to join the Scheme and you will be asked to confirm on your application form that you have done so. You will want to ensure that your tenancy agreement will not be adversely affected by joining the Scheme.

3.4 Are there any additional requirements for applications on behalf of Common Grazings Committees?

Yes. The legal framework within which the Committee must operate requires that any proposed course of action (including participation in an agri-environment scheme) must be:

- (a) within the Committee's statutory powers and
- (b) consistent with the Grazings Regulations.

An outline of the procedures that a Common Grazings Committee must follow before submitting an application to the Rural Stewardship Scheme is contained in "Guidance Notes for Grazings Clerks and Grazings Committees" - a copy can be obtained from your local SERAD office.

3.5 When should I apply?

You can apply at any time. However, your application, together with the

Conservation Audit and, if applicable, the Moorland Management Plan and Prescriptions for Small Units application, must be received in the relevant local SERAD office by 31 March of the year in which you wish to join the Scheme.

For more detailed guidance, you should refer to the relevant 'Notes on Completion' that form part of the Application Form, Environmental Audit and Moorland Management Plan proformas.

Section 4

Assessment of Applications

4.1 How will applications be assessed?

On receipt of an application, an initial administrative check will be undertaken to ensure it is valid and that all the required documentation has been submitted. The Environmental Audit and, if appropriate, Moorland Management Plan will also be checked to determine whether or not they are satisfactory.

Following an appraisal inspection, the submitted Application, Audit, Moorland Management Plan and Prescriptions for Small Units applications (if appropriate) applications will be checked to ensure that they contain appropriate detail and acceptable information.

4.2 What other issues will be addressed at the initial appraisal?

EC Regulations require that where an agri-environment agreement involves management of grazing, the area of

permanent grassland on the holding must be maintained and managed so that environmental deterioration from overgrazing or under utilisation is prevented. Details of the area of permanent grassland and annual stocking density will be agreed with you at appraisal. At any subsequent compliance check inspection, you will be required to demonstrate that you have complied with this requirement.

4.3 Will my application be automatically accepted?

No. The Scheme is discretionary so all applications will be subject to the selection process and may have to compete for funding. A Ranking System has been developed to facilitate selection of applications into the Scheme. The application form includes questions that will allow us to rank applications and calculate a total ranking score.

Once the resources available to fund new applications have been established, the acceptance threshold ranking score will be set. When all applications have been ranked, we will determine which of them can be allowed entry into the Scheme. This will depend on the number and value of applications submitted each year and the level of resources available to fund new applications.

4.4 If my application is turned down because the Scheme is over-subscribed, can it be reconsidered next year?

Yes. You must however re-submit it and the application will be considered

afresh against all the applications being considered for approval in that year.

4.5 What happens if my application is accepted?

You will receive a letter from the Department approving your application to join the Scheme. This will normally be issued by the end of August.

4.6 What happens if my application is not accepted?

We will notify you of this and explain why your application has not been accepted into the Scheme.

Section 5 Advice?

5.1 Advice on nature conservation and habitat management

There are many organisations and consultancies able to provide professional advice on nature conservation and habitat management. Your chosen adviser should have knowledge of or expertise in both agriculture and conservation.

5.2 Information and advice on woodland management

For general advice on the management of native and semi-natural woodland, you or your adviser may wish to consult the local Forestry Commission Conservator. Detailed guidance on appropriate management of semi-natural woodlands is contained in a series of Forestry

Commission Forestry Practice Guides. These can be obtained from the Forestry Commission.

5.3 Information and advice on archaeological and historic features and designed landscapes

To find out what sites or features are on your land, you or your adviser must consult the Sites and Monuments Record (SMR) for your area, if there is one. This is normally located in your local authority and is maintained by their archaeologist. Where there is no SMR, or if your local SMR is unable to assist, you or your adviser must consult the National Monuments Record of Scotland (NMRS) in Edinburgh. They will be able to advise you on known archaeological or historic features, gardens and designed landscapes. The NMRS and local planning authority will also be able to advise if there are scheduled ancient monuments or important gardens and designed landscapes on your land. Unless you have the scheduling notice to hand, it is always worthwhile checking exact boundaries of scheduled ancient monuments with Historic Scotland. Historic Scotland and Scottish Natural Heritage can provide advice on designed landscapes.

The addresses and telephone numbers for NMRS, Historic Scotland and Scottish Natural Heritage are listed in Appendix 3 at the back of this booklet

NMRS data are available in a limited, non map-based form on the Internet at Canmore (<http://www.rcahms.gov.uk>). This may be useful to gain an initial

impression of the nature of the archaeology on a holding but Canmore should not be used as the sole basis for audit or plan drafting.

You or your adviser should provide a national grid reference and a good quality map showing the extent of your land holdings to help the SMR or the NMRS identify what is known and provide you with information on the nature and approximate extent of any sites.

5.3.1 What do I do if I have an archaeological or historic feature?

Basic protection for ancient monuments is provided under the General Environmental Conditions of the Scheme and outlined in Historic Scotland's leaflet "Managing Scotland's Archaeological Heritage". Active management to enhance, improve or further protect an area of archaeological or historic interest may be carried out under the Management of Archaeological/Historic sites option. Your Local Authority archaeologist will be able to offer advice on the best management of any individual unscheduled site, particularly where the sites are of a complex nature, and there are also private sector consultants who may be able to help.

5.3.2 What do I do if I have a Scheduled Ancient Monument?

You should already be aware of any scheduled ancient monuments (SAM) on your land, but if you are in doubt you must consult Historic Scotland who will provide information on the

existence of SAMs and offer advice on their protection and management. It is particularly important that the extent of SAMs is accurately depicted in your application. You must obtain Scheduled Monument Consent before carrying out any work that might affect any part of a scheduled ancient monument and Historic Scotland can also provide advice on this. Evidence of discussion with Historic Scotland, including any necessary formal consent, must be submitted with the Environmental Audit if you are proposing any new works which might affect a SAM but is not needed if you are simply continuing an existing non-damaging management regime.

5.3.3 What do I do if my farm includes an important Garden or Designed Landscape?

The RSS does not contain a specific management measure for designed landscapes but does contain capital measures that can be combined to create a package of works that will assist the conservation and restoration of features that constitute the key elements of the designed landscape. If any measures are proposed within part of a designed landscape, you or your adviser must consult Scottish Natural Heritage. Evidence of such consultation must be submitted with the Environmental Audit.

You can confirm whether any of your farm lies within a designed landscape which is included on the *Inventory of Gardens and Designed Landscapes* (1987), by checking the *Inventory*, copies of which may be consulted at

main public libraries, local SNH or SERAD offices, or obtained from SNH Publications Section, Battleby, Redgorton, Perth PH1 3EW. Contact your local SNH office for details of whether your farm lies within a candidate site that may be added to the Inventory.

For further information about the management of Designed Landscapes, see: Debois Landscape Survey Group, 1997. *Designed Landscapes in Scotland: notes on their planting and management*. SNH Review No 82. For details of maps and other documents which may be helpful, see: C. Dingwall, 1995. *Researching Historic Gardens in Scotland: A Guide to Information Sources*. SNH Review No 54.

Both of these are available from SNH Publications at the above address.

5.4 What will this advice cost?

The charge for conservation advice, is a matter to be decided between you and your chosen adviser. The level of charges for information on archaeological/historic features and designed landscapes is a matter for individual authorities and the NMRS, but you can expect to pay in the region of £20 - £40 per hour. Historic Scotland will provide information and advice on the management of SAMs free of charge, and there is no charge for dealing with formal scheduled monument consent applications. Free information and advice on Inventory gardens and designed landscapes is available from Historic Scotland and Scottish Natural Heritage.

SERAD will contribute towards the cost of preparing the Environmental Audit and Moorland Management Plan. The amounts available for these are shown in the list of payments in the folder that accompanies this booklet.

Section 6 Payment Arrangements

6.1 What payments are available?

There are one-off payments towards the cost of preparation of the Environmental Audit (EA) and the Moorland Management Plan (MMP) and for a range of Capital Items. Annual payments are available for managing agreed habitats and features to enhance the conservation interest as detailed in the Environmental Audit. Annual payments are also available for stock disposal under a Moorland Management Plan.

Receipted invoices will be required for Environmental Audit preparation costs.

6.2 If my application is not approved because of lack of funds, will I be entitled to receive payments towards the cost of preparation of the Environmental Audit and Moorland Management Plan?

Yes, provided the Environmental Audit and Moorland Management Plan are of a satisfactory standard and the application is otherwise eligible. However, no payment will be made for the preparation of a Moorland

Management Plan where no moorland management is proposed.

6.3 When will the payments be made?

Payments towards the cost of preparation of Environmental Audits and Moorland Management Plans will be made soon after the decision on the application is issued.

Payment for capital items will be made after the work is completed and a properly completed claim is submitted. You must not claim for works which have not been completed.

Payments for managing habitats or features will be made annually in arrears on receipt of a properly completed claim form on or after the anniversary of the approval of the application and annually thereafter.

Stock disposal payments will be made in the September subsequent to the calendar year in which the ewes were disposed of and annually thereafter. For example, for an application approved in 2001 (year 1) the stock must be disposed of prior to submission of the 2002 SAP claim and the first stock disposal payment will be made at the plan anniversary in September (2002).

6.4 How do I claim for payments?

For the Environmental Audit and the Moorland Management Plan, you will require to include with your RSS application, evidence (e.g. a receipted invoice) of the cost incurred in

drawing up the Environmental Audit or Moorland management Plan.

For both management and capital payments, your local SERAD office will provide a pre-printed claim form at the appropriate time which you should complete and return. It is essential that you read the instructions carefully before completing the pre-printed claim form. Payment will only be made on the actual measurements of the capital or management options undertaken or the approved measurement, whichever is the smaller.

The Department will investigate discrepancies between the areas/lengths claimed and the actual measurements. Depending upon the reasons for the discrepancy, action may be taken under the Scheme's breach procedures.

6.5 How are the payments calculated?

Individual payment rates are shown on the list of payment rates in the folder that accompanies this booklet. Rates will be reviewed periodically to ensure that the rates reflect income foregone and the cost of participating in the Scheme. They are not directly linked to inflation. The payments for the Environmental Audit and the Moorland Management Plan are based on an estimate of the likely amount of an adviser's or consultant's time likely to be needed to prepare the audit or moorland plan. The annual management payments are designed to compensate you for the loss of output and income and the additional

costs associated with conservation management. The payments for capital items are based upon estimated average costings for particular items of work.

6.6 Are there limits on the capital or management payments?

No, but where the area being managed exceeds certain limits the payment rates are reduced, as explained below.

Where the total area of habitats proposed for management under the Scheme on the in-bye land exceeds 100 hectares, **all** payment rates applying to these sites will be reduced from the full rate. A definition of In-bye is provided at Appendix 2 of this Booklet.

Where the total area of habitats proposed for management on the rough grazings exceeds 1000 hectares (2000 hectares for common grazings committee applications), **all** payment rates applying to these moorland sites will be reduced. A definition of rough grazings is provided at Appendix 2 of this booklet. You should note that coastal and lowland heath, lowland raised bog and heather moorland are included in this definition.

Please see the payment information in the folder that accompanies this booklet for more details.

Where the stock disposal option is adopted, the annual management payment due will be calculated on the

basis of the area of moorland to benefit and the number of ewes to be removed from the business. The total payment under this option will be limited to the equivalent of 250 hectares of moorland. Hectareage limits apply to the whole IACS business.

Section 7

Scheme rules not dealt with elsewhere in the booklet

7.1 How long will I be expected to sign up for?

Our hope is that farmers and crofters will remain in the Scheme for 10 years but you must undertake to follow the rules of the Scheme for at least 5 years. If everything goes well, we hope that you will agree, in due course, to extend your participation in the Scheme for a further 5 years to secure maximum conservation benefits. There is, however, no commitment on either side to go beyond the first 5-year period.

7.2 Once I have joined the Scheme, can I change my undertakings?

Generally no. You are legally bound to carry out your agreed RSS undertakings and the EC regulations governing the RSS do not allow variations. However it may be possible to allow some minor changes within your agreed proposals, for example, adjustments to the phasing of capital works or to the details of the areas of land. The minor changes will only be agreed if there is a

valid reason and if it does not materially change the aim of the original commitment. Changes between estimated and actual lengths of linear features are dealt with in Section 6. Guidance on the measurement of areas to be entered into the Scheme that do not cover the whole of an existing field is given in the 'Notes on Completion' section of the Conservation Audit. However, in general:

- if you wish to withdraw from any of the undertakings, it may be necessary to repay any payments received plus interest (see Section 8);
- if you wish to undertake entirely new options, you will need to submit a further application.

You are strongly recommended to discuss the matter with your local SERAD office before committing yourself to any changes.

7.3 Can I still claim other Grants and Subsidies?

Yes, providing you can continue to meet the conditions of both the RSS and any other schemes in which you are participating and there is no possibility of conflict or double funding. Prior to claiming aid from different Schemes on the same area of land you must ensure that the rules and conditions of one Scheme do not prevent you from claiming aid from another Scheme. If in any doubt please contact your local SERAD Office. Double claiming is regarded as a serious offence. See Section 8 on breaching Scheme rules.

7.4 Will participation in the Scheme affect my IACS forage area?

Only land occupied on a permanent basis, i.e. owned or held under a secure tenancy agreement or management contract for at least a 5-year term, can be entered into the Scheme.

Generally such land should be available throughout the year but, if it is not, and it is to be counted as forage area for IACS purposes, the land must be available for use for maintaining livestock and producing a forage crop for *at least 7* consecutive months starting anytime between 1 January and 31 March. It must also be available to your business on the 15 May. In all cases, the land must be available to you to graze animals on it or take a forage crop from it for at least 4 months (not necessarily consecutive). Where availability is for less than one year then the four months must be within the period when the land is used to produce a forage crop, either for storage or direct consumption by grazing livestock.

7.5 Can I continue to claim AAPS?

You can continue to claim Arable Area Payments on land entered into RSS, provided all other AAPS eligibility conditions are met. However, parts of arable fields entered into the RSS and taken out of production, for example as grass margins, beetlebanks, water margins and extended hedges, cannot be included in the area claimed under AAPS.

7.6 Will participation in the Scheme affect my Sheep quota?

If you make stock reductions as a result of habitat management requirements, other than as part of the stock disposal option, the normal rules on transfer and lease of quota will continue to apply.

These are set out in the SAP Notification of Permanent Transfer or lease of Quota Explanatory Leaflet available from your local SERAD office. In such circumstances, you will be exempt from the normal quota usage rule for the duration of your participation in the Scheme. The quota implications of participation in the stock disposal option are set out in Part 3, Section 12 of this Booklet.

7.7 Does participation in the RSS affect any other requirements to consult or obtain permission?

No, you must still comply with any statutory requirements to consult other bodies on conservation issues. For example, Scottish Natural Heritage must be notified when it is intended to undertake any work or management activity affecting a Natura 2000 site or a Site of Special Scientific Interest and Historic Scotland should be consulted before any work is carried out on a Scheduled Ancient Monument.

7.8 What happens if I can no longer meet the conditions of the Scheme?

If for any reason you find that you can no longer meet the conditions of the

Scheme, you should notify your local SERAD office, in writing, immediately giving a full explanation of the position together with any relevant evidence.

Because of the requirements of European legislation you may be required to repay all or part of the payments you have received. The Department may also have to charge interest and, depending upon the nature of the breach of the conditions, may, in addition, have to apply a financial penalty. What happens in the event of failure to meet the conditions of the Scheme will depend on the circumstances of each case. (See Section 8 on breaches of Scheme rules).

7.9 What if failure to meet the Scheme conditions was not my fault?

If the failure to meet the Scheme conditions was for reasons that you could not reasonably have foreseen, or was due to circumstances beyond your control, the Department can decide not to seek repayment or apply a financial penalty. These circumstances are known as “force majeure”. Each case will be considered on its merits but circumstances that could count as “force majeure” include a severe natural disaster, compulsory purchase order, accidental destruction of buildings for livestock or the death or long-term incapacity of the farmer.

7.10 Can I sell or lease all or part of the land entered into the Scheme?

If during the 5-year period of the undertaking, you decide to sell or lease

all or part of the land, you should inform your local SERAD office as soon as possible and within 3 months of the change of occupancy occurring. Normally it will be possible for the new owner or tenant to take over your undertakings but if, within 3 months from the date of occupation, this has not taken place, the Department may be obliged, under the provisions of the relevant European legislation, to reclaim all or part of the payments you have received, with interest. (See Section 8 on breaches of Scheme rules). If you wish to sell or lease any of your land it would, therefore, be very much in your interest to seek or persuade the incoming farmer or crofter to take over your undertakings. If the successor is agreeable to taking over your RSS undertaking, he should complete a Successor Application form (which you will also have to sign), available from your local SERAD office.

7.11 What happens if I acquire additional land?

If, during your participation in the RSS, you acquire additional land that will be managed as part of a unit currently in the RSS, the options available to you, the effect this may have on your existing RSS undertaking, and the action you must take are as follows:

- **If the new land is already entered into the RSS:** You can if you wish, apply to take on the RSS obligations of the previous occupier which relate to the area of land you have acquired. You should apply, (using a Successor Application Form available from

your local SERAD office) at the earliest opportunity and not later than 3 months after the date you acquire the land.

It may be possible to extend your existing RSS undertaking to include the transferred obligations. However, this can only be approved if the following conditions are met:

- i. The area of new land must be significantly less than your existing unit entered into the RSS, or not more than 2 ha, and
- ii. Your existing RSS undertaking has at least the same period or longer to run than the remaining period of the new undertaking.

If the above conditions cannot be met, both undertakings will run concurrently until your original 5-year period is completed. If you wish to continue for a further 5 years, your original undertaking can then be adjusted to include the transferred undertakings. Otherwise, you have the right to withdraw from both sets of undertakings at the end of their respective 5-year periods. It is important to note, however, that even if only one of the undertakings is still running, the General Environmental Conditions and the requirements of Good Farming Practice will continue to apply across the whole of the unit, including the acquired land, until the final 5 year period is completed.

The normal rules on payment ceilings apply, i.e. the ceilings will continue to

be applied per IACS business and not per undertaking.

- **If the acquired land is not part of an existing RSS undertaking:** The General Environmental Conditions and the requirements of Good Farming Practice will also apply to the new land. To enable this to be registered, you must complete a new RSS application form (available from your local SERAD office) and have an Environmental Audit carried out over the new land. The completed Audits should be returned to your local SERAD office at the earliest opportunity and not later than 3 months after the date you acquire the land. The normal window period for applications does not apply. You will be able to claim reimbursement for the Audit costs as set out in Part 6, Section 1.

If you wish to undertake any RSS management, creation or capital options on the new land, you will have to submit a new application, which will be subject to the normal RSS application procedures.

7.12 Can I appeal if the Department decides to recover payments from me or impose a penalty?

Yes. If you feel that SERAD did not reach the correct decision in your case or you do not fully understand the decision, you should contact your local SERAD office for a fuller explanation. If you are not satisfied with the explanation given and wish

the decision to be reviewed, you should initiate the appeals procedure as outlined below:

- Check that you have the right to appeal. For instance, a decision on eligibility to join a scheme would not be grounds for you to lodge an appeal.
- If you have grounds for lodging an appeal, submit your appeal within 60 calendar days from the date on SERAD's decision letter using the standard application form API, which can be obtained from your local SERAD office.
- Send the completed form (API) to the Appeals Secretariat, SERAD, 47 Robb's Loan, Edinburgh, EH14 1TY.

The Appeals Secretariat will register your appeal and acknowledge receipt. Further information regarding the appeals procedure is contained in the Appeals Information leaflet, AP(EL) which can be obtained from your local SERAD office.

7.13 What if I have a complaint?

If you have a complaint about the service we provide, you should proceed as follows:

First get in touch with the person dealing with your case. You can register a complaint by letter, by telephone, or in person. If you want your complaint considered by a more senior officer, please write to the Principal Agricultural Officer at your local SERAD office. It will help us to

investigate your complaint if you set out the facts as fully as possible. We will acknowledge your complaint by return, investigate it fully, and aim to reply within 2 weeks.

If for any reason you remain dissatisfied, please write to us at SERAD Headquarters.

- If you feel that the service you have received from the Area Office staff has not been satisfactory, you should write to the Chief Agricultural Officer, SERAD, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY, who will investigate the matter further.
- Alternatively, if your concern is that the rules of this Scheme are unfair or have not been properly applied in your case, you should write to the Head of Conservation Branch, PEP Division (1), SERAD, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY.

You may of course also write to the Minister for Rural Development at the Scottish Executive, St Andrew's House, Regent Road, Edinburgh EH1 1DG. You may also contact your Member of the Scottish Parliament, Member of Parliament (or if you prefer, any other MSP or MP) and ask for your complaint to be passed to the Parliamentary Commissioner for Administration (the Parliamentary Ombudsman) who is entirely independent of the Government. However, he can only act when asked to do so by a MSP or MP.

On the other hand, if you are satisfied with the service we have provided, or wish to highlight some exceptional performance, we would be happy to hear from you. Should you have suggestions about how we can build upon the service we provide, these will also be welcomed.

Section 8

Consequences of Non-Compliance with Scheme Rules and Conditions

8.1 Sanctions

Prior to agreeing to enter the RSS, you must be sure that you have the resources to undertake each of the options you have chosen and carry them out in the stipulated timescale. Failure to comply with any of your agreed proposals will be considered a breach of scheme conditions. Depending on the nature of the breach, the Department can impose one or more of the following sanctions: the withholding of any payments due to you, recovery of payments already made plus interest, termination of your undertaking, the addition of a penalty of up to 10% of the total EC reimbursable aid you were due to receive and a ban from entering another agri-environment scheme for 2 years.

8.2 Exceptional circumstances

The only exception to the above would be in cases of *force majeure*, i.e. where you could not reasonably have foreseen the cause for the non-compliance. In such cases, the

Department can decide not to apply any of the above sanctions. Each case will be considered on its merits but circumstances that could count as *force majeure* include: a severe natural disaster, compulsory purchase order, accidental destruction of buildings for livestock or the death or long-term incapacity of the farmer.

8.3 Notifying SERAD

The sanctions to be applied in a breach case will be commensurate with the seriousness of the breach in terms of the damage caused and/or its significance to the overall aims of the approved proposals. Therefore, as soon as you are aware that you are unable to fulfil any part, or all of, your RSS obligations, you should notify your local SERAD office immediately in writing, giving a full explanation of the situation and enclosing any supporting evidence. If you fail to notify any non-compliance and it is picked up during a compliance inspection, this will be taken into account in determining the appropriate sanction. Serious breaches include: deliberate damage, providing false or misleading information and making a claim for works you have not undertaken. Sanctions in such cases will be at the top end of the scale and you may be liable to prosecution.

8.4 Withdrawal from Scheme

There is no right to withdraw from the Scheme without sanctions other than on completion of your agreed period in the scheme, normally 5 years, or where *force majeure* applies. If you wish to withdraw from the RSS, you

should write to your local SERAD office explaining why you wish to do so. Normally you will be required to repay any RSS payments already made to you plus interest, including Environmental Audit and Moorland Management Plan payments. A penalty may also be applied.

8.5 Selling or leasing all or part of your unit

If the new occupiers of the land do not take on the RSS obligations applying to the land you will normally be required to repay all or part of the RSS payments you have already received plus interest. You must keep your local SERAD office advised of any changes affecting the legal occupiers of the land entered in the scheme.