

SUBSIDIES



CORE TOPICS:

- Subsidies currently available in Scotland that may be available for rewilding and upcoming changes.

KEY TAKEAWAYS:

- As well as the Basic Payment Scheme, the Scottish Rural Development Programme may provide financial support for various rewilding activities.
- New support mechanisms will be put in place under the proposed Agriculture Bill which is anticipated in 2024.
- The Scottish Government's vision document and relevant consultations suggest that the key outcomes for support will include climate change adaptation and mitigation, and nature protection and restoration.

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1. DEVELOPMENT OF AGRICULTURAL SUBSIDIES: BEFORE BREXIT

The Common Agricultural Policy (“CAP”) is a European programme of funding and support for farmers and crofters, as well as rural businesses and communities.

Europe allocates funding to each member state in two ways:

- The European Agricultural Guarantee Fund – Pillar One or the former Direct Payments (payments that farmers, crofters and landowners may be entitled to, based on the size and type of their farm and the livestock they keep); and
- The European Agricultural Fund for Rural Development – Pillar Two or the former Scottish Rural Development Programme (a range of grants and support for rural communities, rural businesses, farmers, crofters and other land managers).

2. DEVELOPMENT OF AGRICULTURAL SUBSIDIES: AFTER BREXIT

The European Union (Withdrawal) Act 2018 wrote CAP into domestic law.

In August 2020, the Scottish Parliament passed the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 (the “**Retained EU Law Act**”), which gave ministers the power to alter the inherited CAP regime.

In August 2021, the Scottish Government and Scottish Green Party shared a draft policy programme¹ setting an aim for Scotland to be a global leader in sustainable and regenerative agriculture. The programme proposes that an Agriculture Bill be passed and sets out that the Bill will deliver:

- A new support framework that will include delivering climate mitigation and adaptation, nature restoration and high-quality food production;
- Integration of enhanced conditionality against public benefits, with targeted outcomes for biodiversity gain and low emissions production; and
- Increased equality of opportunity, improving business resilience, efficiency and profitability

The Bill is to replace the current CAP framework for agriculture and land use support. The Scottish Government have committed to consulting with stakeholders before introducing this Bill². A consultation on agricultural transition in Scotland took place from 25 August 2021 to 17 November 2021³. The Agriculture Reform Implementation Oversight Board published the responses to this consultation⁴ and set-out their full rationale and proposals for a future Agriculture Bill by way of consultation in August 2022⁵.

The Scottish Government must lay a new Scottish agricultural policy before the Scottish Parliament no later than 31 December 2024⁶.

3. CURRENT STATE OF AFFAIRS

The Retained EU Law Act provides the current legislative framework in Scotland⁷. Below is a brief outline of the current subsidies that may be applicable to rewilding projects in Scotland.

3.1 Direct payments – the Basic Payment Scheme

The Direct Payments to Farmers (Legislative Continuity Act 2020 wrote CAP direct payment schemes into domestic law for the 2020 claim year and the Retained EU Law Act provides that the Scottish version of the CAP scheme will continue to apply (subject to modification by the government) until the government implements a new scheme. In March 2022, the government published their

vision for a new scheme, see Section 3, below.

The payments available under the existing scheme in Scotland include:

The Basic Payment Scheme

The Basic Payment Scheme acts as a safety net for farmers and crofters by supplementing their main business income. To qualify for this support, you must actively farm eligible land.

Eligible land under the scheme is any agricultural area of the holding used as arable land, permanent crops or permanent pasture, with a minimum area requirement of 3 hectares⁸. The land must comply with the Good Environmental & Ecological Condition requirement.

An active farmer is a farmer who produces, rears or grows agricultural products, including through harvesting, milking, breeding animals, and keeping animals for farming purposes.

Whether or not land that forms part of a rewilding landscape constitutes “eligible land” and the rewilding activities constitute “active farming” will be a matter of fact and rewilders should take specific advice on where the boundary lies if they wish to be eligible for the Basic Payment Scheme.

The Basic Payment Scheme is area-based and has been regionalised to reflect the variation in the traditional quality of land across Scotland. For land to be eligible for claiming under the Basic Payment Scheme, the claimant must undertake the minimum activity for the payment region your land is in. There are three payment regions:

- **Region 1:** includes better quality agricultural land that has been used for arable cropping, temporary grass and permanent grass;
- **Region 2:** includes rough grazing with a Less Favoured Areas (“**LFA**”) grazing category of B, C, D or non-LFA; and
- **Region 3:** includes rough grazing with an LFA grazing category A.

In addition, payment regions 2 and 3 have been designated “land naturally kept in a state suitable for grazing”. This means that there is a presumption that there has been no meaningful activity by the claimant to maintain the agricultural potential of the land.

Consequently, the claimant must undertake a specified activity in order to turn such land into eligible hectares.

Therefore, the extent to which a rewilding project, which for example involves extensive grazing by large herbivores, might satisfy the scheme may depend on the region in which it is carried out. It appears that, depending on e.g., stocking density and it being considered to be active farming, the extensive grazing of large herbivores on rough grazing land in regions 2 and 3 might qualify under the Basic Payment Scheme. It appears unlikely that it would qualify as such in region 1.

Separately, rewilders may be interested to know that the requirement for minimum agricultural activity can also be met in payment regions 2 and 3 by undertaking an annual Environmental Assessment which consists of three elements (i) a map and description of the farm environment; (ii) a breeding bird, mammal and butterfly survey; and (iii) monitoring of habitats including plant health survey.

However, the eligibility of any activity under the Basic Payment Scheme will always be fact dependent so please read Basic Payment Scheme full guidance⁹ for eligibility information.

Greening payment ‘for agricultural practices beneficial for the climate and environment’

A Greening payment ‘for agricultural practices beneficial for the climate and environment’ is a top-up of the Basic Payment Scheme available in Scotland. In order to claim a Greening payment, you must therefore first be eligible to receive a Basic Payment.

The Greening requirement applies at a business level. This is the land under one Business Reference Number (i.e., all the land your business claimed on your Single Application Form). Greening is paid in accordance with the number of eligible hectares in the region concerned in each year of application.

To make sure you receive the Greening payment with your Basic Payment, you must comply with Greening requirements. Please read the guidance to see which Greening requirements apply to you. Greening activities may be applicable to rewilders who qualify for the Basic Payment and must include one or more of the following:

- protecting permanent grassland designated as environmentally sensitive grassland; and
- farming 5% of your arable area in a manner that promotes biodiversity – known as an Ecological Focus Area.

For further information please read the Greening Guidance (2022)¹⁰.

Young Farmer payment

Should any rewilders eligible for the Basic Payment Scheme be under the age of 40, they may be able to claim a Young Farmer top up payment. It is expected that this payment will continue to 2024 with the Scottish Government due to make an announcement on plans for after then imminently¹¹. For further information please read Rural Payments and Inspections Division (“RPID”) guidance¹².

Voluntary Coupled Support

Voluntary Coupled Support includes the “Scottish Suckler Beef Support Scheme” and the “Scottish Upland Sheep Support Scheme”. These schemes provide a payment linked to farm production to maintain livestock numbers. For further information please read Scottish Suckler Beef Support Scheme (Mainland and Islands) full guidance¹³ and the Scottish Upland Sheep Support Scheme full guidance¹⁴.

3.2 Scottish Rural Development Programme

Pillar 2 of the CAP is the financial support provided through the Scottish Rural Development Programme.

The principle of ‘public money for public goods’ underpins Pillar 2. The concept of public goods is a way of describing the environmental and social goods and services provided by agriculture and forestry that society benefits from, but which farmers are not rewarded for through market prices. Maintaining or encouraging the provision of public goods therefore needs supporting, through financial incentives or other mechanisms.

Below we have highlighted schemes that may be relevant to some rewilders that are still applicable during the transition period (which is expected to run until 2024).

The Agri-Environment-Climate Scheme (“AECS”)

The AECS was part of the Scottish Rural Development Programme 2014-20 and has also been included in the Scottish Rural Development Programme 2021-2024¹⁵.

The AECS aims to:

- Deliver the Scottish Biodiversity Strategy¹⁶ (forming part of the Scottish Government’s Green Recovery¹⁷) by supporting appropriate management for vulnerable and iconic species and habitats, strengthening ecological networks, controlling invasive non-native species and enhancing the condition of protected nature sites;
- Contribute to Scotland’s climate change targets by reducing greenhouse gas emissions from agriculture and securing carbon stores in peatlands and other soils;
- Meet obligations to improve water quality under the Scotland River Basin Management Plan by reducing diffuse pollution;
- Control flooding through natural flood risk management
- Support organic farming;

- Preserve the historic environment; and
- Improve public access.

The AECS awards about £30-40 million annually to land managers¹⁸. The following activities have been awarded funding by AECS:

- Arable farmland and birds;
- Designated sites;
- Key vulnerable species;
- Pollinators;
- Water management;
- Grassland management, habitat mosaics and carbon rich soils;
- Carbon rich soils;
- Moorland management;
- Hedgerows; and
- Organic farming.

The AECS is delivered jointly by the RPID and NatureScot.

Note that AECS does not appear to provide payment for capital expenditure such as fencing. Funding may be available through the Small Farms Grant Scheme and New Entrants Capital Grant Scheme. Please see below.

Applying to the AECS

The AECS is open to farmers, groups of farmers and other land managers with land in Scotland and who are registered with RPID¹⁹ and have a Business Reference Number.

To be eligible applicants must be able to demonstrate that they have the legal right to carry out the projects

to be funded for the length of the contract and any associated monitoring period.

To maximise environmental outcomes and ensure value for money, support under the AECS is geographically targeted. This means that applicants will need to check which options are available in their area before applying²⁰. If applicants have several holdings, they will need to enter each of these separately.

For further detail on how to apply please refer to the Scottish Government's 'Rural Development: Agri-Environment Climate Scheme' full guidance²¹ and the checklist of requirements for applications²².

Forestry Grant Scheme

The Forestry Grant Scheme offers financial support for the creation of new woodland and the sustainable management of existing woodland as outlined below.

It appears that rewilding projects working towards e.g., native woodland creation and restoration or agroforestry may be able to benefit from one of these grant schemes, but it will depend on the specific nature of each project. A detailed analysis of the relevant guidance should be undertaken with the proposed project in mind.

Each type of grant within the Forestry Grant Scheme will cover different capital costs, based on a number of capital items as explained in more detail in the Scottish Government guidance.²³ You must claim your capital items on the Forestry Grant Scheme Manual Standard Costs Capital Item Claim Form once you have satisfactorily completed the work to the desired specification

Capital items must meet, as a minimum, the specifications detailed in the individual capital item's guidance. You must include a map of the location of the capital items with your claim.

Please consult the Forestry Grant Scheme Capital Items list to determine whether your proposed item is covered by the Scheme.

Grant options for owners of existing woodland²⁴

I. Woodland Improvement

This contains five grant options:

- Planning;
- Habitats and species;
- Restructuring regeneration;
- Low Impact Silvicultural Systems; and
- Woodlands in and around towns.

Note that the capital costs of deer fencing may be covered by grants for woodland improvement focusing on habitats and species where without such protection, a project will be prevented from meeting its grant objectives.²⁵

II. Sustainable Management of Forests

This contains nine grant options:

- Low Impact Silvicultural Systems;
- Native Woodland;
- Livestock Exclusion;
- Woodland Grazing;
- Public Access Rural Woods;
- Public Access – Woods In and Around Towns;
- Grey Squirrel Control;
- Predator Control for Capercaillie and Black Grouse; and
- Species Conservation – Reducing Deer Impact.

III. Forest Infrastructure

This grant has two aims:

- to provide support for new access infrastructure that will bring small scale (up to 50 hectares), undermanaged or inaccessible existing woodlands back into active management; and
- to provide support for new access infrastructure to new woodlands as part of the Sheep and Trees initiative.

Capital grants are available for the following types of infrastructure under this scheme:

- Construction of forest road (up to 500m) with on-site material;
- Construction of lay-bys turning areas and loading bays; and
- Bell-mouth junction²⁶.

IV. Harvest and Processing

V. Tree Health

Grant options for woodland creation²⁷

The following grants depend on specific requirements for composition and stocking densities. Grants are available for the creation of the following woodland:

- Conifer (predominantly Sitka spruce);
- Diverse conifer (species other than Sitka);
- Broadleaves (productive species at high stocking);
- Native Scots pine;
- Native upland birch;
- Native broadleaves;
- Native low density;

- Small or Farm woodland (mixed woodlands less than 10ha); and

- Northern & Western Isles.

Rates vary depending on species planted.

Note that capital costs associated with deer fencing may be covered under this scheme where without such protection, a project will be prevented from meeting its grant objectives.²⁸

Please note that additional payments are available for a number of operations ancillary to the establishment of new woodland such as for improving fencing.

I. Agroforestry

Agroforestry is an integrated approach to land management where trees and agriculture co-exist to provide multiple benefits.

This option is new to the Forestry Grant Scheme and provides grant support to help create small scale woodlands on sheep grazing pasture.

The trees can:

- provide shelter for livestock
- provide timber
- increase biodiversity
- enhance the landscape

The rate of capital grants available for agroforestry depends on the number of trees planted per hectare. This also has a bearing on the annual maintenance rate (payable for up to five years)

II. Sheep and Trees

This is available to upland livestock farmers where sheep are, and will continue to be, a major component of the farm business. The new woodland must be between

10 hectares and 50 hectares of productive conifer woodland using the 'Conifer' or 'Diverse Conifer' options.

3.3 Central Scotland Green Network contribution

The Central Scotland Green Network ("CSGN") is a development within the National Planning Framework. It aims to restore and transform the landscape, whilst making a significant contribution to Scotland's sustainable economic development. If successfully applying for a woodland creation grant within the CSGN area, an applicant could also receive an additional grant called CSGN contribution.

Small Woodland Loan Scheme

It is also worth noting that there is the Small Woodland Loan Scheme. This is a loan to allow the work required to create new, small woodlands (no greater than 50 hectares) before obtaining financial support from the Forestry Grant Scheme. For further information please refer to the Scottish Forestry guidance²⁹.

To make an application visit the RPID's website³⁰, and refer to their guidance on making an application³¹.

Please refer to guidance from the Scottish Forestry Commission for further information³².

Less Favoured Area Support Scheme

The Less Favoured Area Support Scheme ("LFASS") provides essential income support to farming businesses in remote and constrained areas. To constitute an eligible "farming business", you must be (i a farmer or a crofter aged 16 years or above; (ii) who holds at least 3 hectares of eligible land (the RPID will confirm if the land is eligible; (iii) which is actively farmed (this requires the applicant to own stock; and (iv) be an active farmer (i.e. a natural or legal person (or a group of natural or legal persons)) whose holding (production units are situated within Scotland and that person carries out an agricultural activity that can include the production, rearing or growing of agricultural products, including harvesting,

milking, breeding animals and keeping animals for farming purposes (as defined in the Direct payment scheme³³) in remote and constrained rural areas (i.e. the area classed as LFA in Scotland. There are maps showing the Scottish LFA boundary available from the RPID. It is anticipated that the LFASS will remain until 2024³⁴.

To make an application visit the RPID's website³⁵, and refer to 'Rural Development: Less Favoured Area Support Scheme' full guidance when making an application³⁶.

To the extent that rewilders are working on land classified as LFA and are keeping animals for the production of agricultural products, it appears that they could qualify for this support scheme. Eligibility, however, will depend on the facts and scope of each specific rewilding project.

Small Farms Grant Scheme

This scheme provides capital grants for small farms (between 3 and 30 hectares to make improvements to their holdings and help to sustain their businesses. Grants are provided for activities including the provision or improvement of equipment for handling and treating livestock; and planting of shelter belts and the provision of fences, hedges, walls, gates or stock grids.³⁷

If rewilders on small projects are undertaking agricultural activity and are active farmers (discussed above, they may be eligible for such a grant for relevant activities.

To make an application visit the RPID's website³⁸, and refer to 'Small Farms Grant Scheme' and 'New Entrants' full guidance when making an application³⁹.

4. FUTURE CHANGES

In March 2022 the Scottish Government published their vision for agriculture that included an aim to transform farming and food production support to help Scotland become a global leader in sustainable and regenerative agriculture⁴⁰.

Of particular interest to rewilders, the Scottish Government's vision refers to their intention to support land managers and "design those mechanisms to support outcomes that restore nature, benefit our natural capital and promote the natural economy".

To help deliver on this aim the Scottish Government have invested in a National Test Programme, which will support and encourage farmers, crofters and land managers to learn about how their work impacts on climate and nature⁴¹. This may be a valuable learning resource for rewilders.

This vision also noted that the AECS is set to be revised through the Scottish Agriculture Bill which is to be brought forward in 2023⁴², following the consultation⁴³ which closed in November 2022.

The consultation⁴⁴ provides insight into what can be expected from the Agriculture Act and is worth reading for further information. In summary, four tiers of payments are proposed, Tiers 2 and 3 of which specifically include nature restoration and enhancement, making them potentially applicable for rewilding activities.

The proposed key outcomes for support will be:

- Climate change adaptation and mitigation;
- Nature protection and restoration;
- High quality food production; and
- Wider rural development.

It is suggested that the Agriculture Bill will include powers and other mechanisms to allow payments to farmers, crofters and land managers to specifically support national targets around these outcomes. It seems likely that certain rewilding activities may be capable of helping to support these outcomes and therefore benefit from support payments.

Thank you to Burness Paull LLP for their legal support in producing this briefing note.

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice. You should not assume that the case studies apply to your situation and specific legal advice should be obtained.

The hyperlinks to legislation, guidance and various other external sources within this briefing are correct as of October 2022.

ENDNOTES

1. Our natural environment – Scottish Government and Scottish Green Party: [draft shared policy programme – gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2022/08/draft-shared-policy-programme-gov-scot)
2. It is worth noting the proposals in the 'Sustainable and integrated farming and crofting activity in the hills and uplands of Scotland: blueprint – report' from the Hill, Upland and Crofting Climate Change Group ([Sustainable and integrated farming and crofting activity in the hills and uplands of Scotland: blueprint – report – gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2022/08/sustainable-and-integrated-farming-and-crofting-activity-in-the-hills-and-uplands-of-scotland-blueprint-report-gov-scot))
3. [Agricultural transition in Scotland – Scottish Government – Citizen Space \(consult.gov.scot\)](https://www.gov.scot/resources/documents/2022/08/agricultural-transition-in-scotland-scottish-government-citizen-space)
4. [Agricultural transition in Scotland: Feedback updated 26 August 2022](https://www.gov.scot/resources/documents/2022/08/agricultural-transition-in-scotland-feedback-updated-26-august-2022)
5. [Delivering our vision for Scottish agriculture – proposals for a new Agriculture Bill: consultation](https://www.gov.scot/resources/documents/2022/08/delivering-our-vision-for-scottish-agriculture-proposals-for-a-new-agriculture-bill-consultation)
6. Section 22(3) of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020
7. [Agriculture \(Retained EU Law and Data\) \(Scotland\) Act 2020 – Explanatory Notes \(legislation.gov.uk\)](https://www.gov.scot/resources/documents/2022/08/agriculture-retained-eu-law-and-data-scotland-act-2020-explanatory-notes-legislation.gov.uk)
8. [Basic Payment Scheme Guidance \(www.gov.scot\)](https://www.gov.scot/resources/documents/2022/08/basic-payment-scheme-guidance)
9. [Basic Payment Scheme full guidance \(ruralpayments.org\)](https://www.gov.scot/resources/documents/2022/08/basic-payment-scheme-full-guidance-ruralpayments.org)

10. [Greening guidance \(2022\) \(ruralpayments.org\)](#) and [Greening guidance \(2023\) \(ruralpayments.org\)](#)
11. [New entrants to farming – Agricultural careers – gov.scot \(www.gov.scot\)](#)
12. [Basic Payment Scheme \(ruralpayments.org\)](#) and [New Entrants resources for farmers from Farm Advisory Service \(fas.scot\)](#)
13. [Scottish Suckler Beef Support Scheme \(Mainland and Islands\) full guidance \(ruralpayments.org\)](#)
14. [Scottish Upland Sheep Support Scheme full guidance \(ruralpayments.org\)](#)
15. [Scottish Rural Development Programme – domestic: programme 2021 – gov.scot \(www.gov.scot\)](#) and [rspb–scotland–aces-paper.pdf](#)
16. [2020 Challenge for Scotland's Biodiversity – gov.scot \(www.gov.scot\)](#)
17. [Securing a green recovery on a path to net zero: climate change plan 2018–2032 - update – gov.scot \(www.gov.scot\)](#)
18. <https://www.nature.scot/doc/scotlands-agri-environment-and-climate-scheme-summary>
19. [Eligibility \(ruralpayments.org\)](#)
20. [targeting.ruralpayments.org](#)
21. [Rural Development: Agri-Environment Climate Scheme full guidance \(ruralpayments.org\)](#)
22. [Checklist of requirements for applications \(ruralpayments.org\)](#)
23. [Scottish Government: Rural Payments and Services: Forestry Grant Scheme capital items](#)
24. <https://forestry.gov.scot/publications/107-the-forestry-grant-scheme-a-guide-to-grant-options-for-existing-woodland-owners/viewdocument/107>
25. [Scottish Government: Rural Payments and Services: Forestry Grant Scheme capital items](#)
26. [107 \(forestry.gov.scot\)](#)
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28. [Scottish government: Rural Payments and Services: Forestry Grant Scheme capital items](#)
29. [Scottish Forestry – Small Woodland Loan Scheme](#)
30. [Forestry Grant Scheme \(ruralpayments.org\)](#)
31. [Forestry Grant Scheme full guidance \(ruralpayments.org\)](#)
32. [Guidance on existing woodland areas - https://forestry.gov.scot/publications/107-the-forestry-grant-scheme-a-guide-to-grant-options-for-existing-woodland-owners/viewdocument/107](#) and guidance on the creation of woodlands <https://forestry.gov.scot/publications/108-the-forestry-grant-scheme-a-guide-to-grant-options-for-woodland-creation/viewdocument/108>
33. [Main features \(ruralpayments.org\)](#)
34. [Scotland's less favoured area scheme funding reinstated – FarmingUK News](#)
35. [Less Favoured Area Support Scheme \(LFASS\) \(ruralpayments.org\)](#)
36. [Rural Development: Less Favoured Area Support Scheme full guidance \(ruralpayments.org\)](#)
37. [Rural Development: Small Farms Grant Scheme and New Entrants Capital Grant Scheme full guidance, Appendix A.](#)
38. [Small Farms Grant Scheme \(ruralpayments.org\)](#)
39. [Rural Development: Small Farms Grant Scheme and New Entrants Capital Grant Scheme full guidance \(ruralpayments.org\)](#)
40. [Sustainable and regenerative farming - next steps: statement - gov.scot \(www.gov.scot\)](#)
41. [Sustainable and regenerative farming - next steps: statement - gov.scot \(www.gov.scot\)](#)
42. [Environment strategy for Scotland: progress report - gov.scot \(www.gov.scot\)](#)
43. [Delivering our Vision for Scottish Agriculture: Proposals for a new Agriculture Bill](#)
44. [Delivering our Vision for Scottish Agriculture: Proposals for a new Agriculture Bill](#)



WHO'S BEHIND THIS GUIDANCE?



This note is part of a range of information produced by Rewilding Britain and The Lifescape Project to provide practical guidance to rewilders. Each is designed to help rewilding practitioners across Britain overcome common barriers in their rewilding journey, as identified through conversations with members of our Rewilding Network.

Rewilding Britain's Rewilding Network provides a central meeting point for landowners, land and project managers and local groups in Britain, offering opportunities for collaboration and allowing smaller landowners to take on larger-scale rewilding together. If you find this useful, please consider joining the Network, where those in Britain can explore these issues further with others in the same boat.



The Lifescape Project is a rewilding charity using a multi-disciplinary approach to achieve its mission of catalysing the creation, restoration and protection of wild landscapes. Lifescape's legal team is working to support rewilders in understanding how the law applies to their activities and pursuing systemic legal change where needed to support the full potential of rewilding. These notes form part of Lifescape's Rewilding Law Hub which aims to provide a legal resource centre for those wanting to manage land in accordance with rewilding principles.



JOIN THE CONVERSATION

We'd love to hear what you've found useful in these notes and where we can help fill gaps in the guidance so that we can make sure they remain an up-to-date practical tool for rewilders.

Get in touch with us at:
Rewilding Britain: the Rewilding Network,
www.rewildingbritain.org.uk/rewilding-network

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