
STATUTORY INSTRUMENTS

1993 No. 3150

**The Environmentally Sensitive Areas
(Shetland Islands) Designation Order 1993**

Citation and commencement

1. This Order may be cited as the Environmentally Sensitive Areas (Shetland Islands) Designation Order 1993 and shall come into force on 13th January 1994.

Interpretation

2.—(1) In this Order—

“agreement” means an agreement under section 18(3) of the Agriculture Act 1986 as regards land in the area designated by article 3;

“apportioned land” means land which has been apportioned by the Crofters Commission for the exclusive use of a particular crofter under the provisions of section 27(7) of the Crofters (Scotland) Act 1955(1);

“common grazings committee” means a committee appointed under section 24(1) or (3) of the Crofters (Scotland) Act 1955;

“conservation plan” means a layout plan (or plans) which categorises all the land included in the agreement, identifies areas subject to specific management measures and indicates the lines or sites of features to be protected or maintained and an attached (written) statement which outlines the specific management measures to be taken to protect or enhance the areas identified in the plan (or plans);

“croft” has the same meaning as in section 3(1) of the Crofters (Scotland) Act 1955(2);

“farmer” means a person who has an interest in agricultural land in the area designated by article 3 and who enters or has entered into an agreement with the Secretary of State;

“grazing plan” means a written description of the time, duration and density at which livestock will be permitted access to grazing land and the action required to achieve such access;

“heather moorland” means areas of land in which heather (*calluna vulgaris*) or other dwarf shrubs (including bell heather (*erica cinerea*), cross-leaved heath (*erica tetralix*), crowberry (*empetrum nigrum*), blaeberry (*vaccinium myrtillus*), bog myrtle (*myrica gale*)) occur throughout the vegetation;

“herb rich unimproved grassland” means land used for grazing or mowing which is not normally treated with mineral fertiliser or lime and does not constitute rough grazing, but which is floristically diverse;

“inbye land” means that part of a croft or farm not comprising the hill and rough grazings, the bulk of which is used for arable and grassland production;

“modifying existing drains” means deepening or altering the course of existing ditches or culverts, re-cutting hill grips or altering outfalls from under drainage systems;

(1) 1955 c. 21; section 27(7) was amended by the Crofting Reform (Scotland) Act 1976 (c. 21), section 16(5).

(2) Section 3(1) was amended by the Crofters (Scotland) Act 1961 (c. 58), Schedule 1, Part II, paragraph 9.

- “muirburn” has the same meaning as in section 39(1)(f) of the Hill Farming Act 1946(3);
- “new drainage” means cutting new grips or ditches and laying new tiles or pipes;
- “overgrazing” means a deterioration in the condition of vegetation which has been caused by too high a level of grazing either throughout the whole year or at certain vulnerable times of the year;
- “planticrubs” means small enclosures formed by drystane dykes used for cultivation of Shetland cabbage;
- “regeneration” means the perpetuation of vegetation through self-seeding or vegetation growth;
- “reverted improved land” means land, previously improved by agricultural management operations which, from an agricultural viewpoint, has degenerated and is now showing significant presence of plant species indicative of unimproved grassland;
- “rough grazings” means land containing semi-natural vegetation including heathland, heather moorland, bog and rough grassland used or suitable for use as grazing;
- “stone crus” means small enclosures formed by drystane dykes used to gather or shelter stock;
- “unimproved pasture” means land used for grazing or mowing which is not normally treated with mineral fertiliser or lime and does not constitute rough grazing;
- “upland vegetation” means vegetation types other than heather moorland which occur within the rough grazings;
- “water margins” means an area of ground bordering an area of still or flowing water;
- “wetlands” means any ground which is normally saturated with water for a significant proportion of the year.

(2) Any reference in this Order to a numbered article shall be construed as a reference to the article bearing that number in this Order.

Designation of Environmentally Sensitive Area

3. There is hereby designated as an Environmentally Sensitive Area that area of land known as the Shetland Islands, which is shown delineated red and coloured pink on the map marked “Environmentally Sensitive Area–Shetland Islands” dated 9th December 1993 and signed on behalf of the Secretary of State for Scotland and deposited at the offices of the Scottish Office Agriculture and Fisheries Department, Pentland House, Robb’s Loan, Edinburgh.

Requirements to be included in agreement

4.—(1) An agreement with a crofter or farmer regarding his croft or farmland and apportioned land shall include the requirements specified in Part I of the Schedule to this Order as to agricultural practices, methods and operations and the installation and use of equipment.

(2) An agreement with a common grazings committee regarding land on the common grazings shall include the requirements specified in Part II of the Schedule to this Order as to agricultural practices, methods and operations and the installation and use of equipment.

Provisions as to breach of requirements to be included in agreement

5. An agreement shall include provision that—
- (a) in the event of a breach by the crofter, farmer, or common grazings committee of the requirements referred to in article 4, the Secretary of State may give the crofter, farmer

or common grazings committee notice in writing terminating the agreement forthwith and may recover from the crofter, farmer or common grazings committee an amount equivalent to the payments made by the Secretary of State under the agreement or such part thereof as the Secretary of State may specify; and

- (b) any question arising under an agreement as to whether there has been a breach of any of the requirements referred to in article 4 shall be referred to and determined by a single arbiter to be agreed between the parties, or in default of agreement to be appointed by the Chairman for the time being of the Scottish Branch of the Royal Institution of Chartered Surveyors and in accordance with the provisions of the Arbitration (Scotland) Act 1894(4) or any statutory modification or re-enactment thereof for the time being in force.

Rates of payment under agreement

6.—(1) Subject to paragraph (2) below, payments made by the Secretary of State under an agreement with any crofter or farmer regarding his croft or farmland and apportioned land shall be at the rate of £15 per annum for each hectare of land to which the agreement relates, or at the rate of £1,000 per annum for any one crofter or farmer, whichever is the lower.

(2) Payments to a crofter or farmer shall be at the rate of not less than £150 per annum.

7.—(1) Subject to paragraph (2) below, payments made by the Secretary of State under an agreement with a common grazings committee shall be at the rate of £15 per annum for each hectare of land to which the agreement relates, or at the rate of £1,000 per annum for any one common grazings committee, whichever is the lower.

(2) Payments to a common grazings committee shall be at the rate of not less than £150 per annum.

8. Where an agreement with a crofter or farmer regarding his croft or farmland and apportioned land identifies in the conservation plan, expenditure required to undertake additional agricultural operations as specified in paragraph 12(b) of Part I of the Schedule to this Order, the Secretary of State shall make additional payments according to the agricultural operations to be carried out. Such payments shall be at a rate to be determined by the Secretary of State, up to a maximum rate of £3,000 per annum per crofter or farmer.

9. Where an agreement with a common grazings committee identifies in the conservation plan expenditure required to undertake additional agricultural operations as specified in paragraph 12(b) of Part II of the Schedule to this Order the Secretary of State shall make additional payments according to the agricultural operations to be carried out. Such payments shall be at a rate to be determined by the Secretary of State, up to a maximum rate of £12,000 per annum per common grazings committee.

St. Andrew's House,
Edinburgh
9th December 1993

Hector Monro
Parliamentary Under Secretary of State, Scottish
Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

We consent,

13th December 1993

Timothy Kirkhope
Irvine Patnick
Two of the Lords Commissioners of Her
Majesty's Treasury