

---

STATUTORY INSTRUMENTS

---

**1996 No. 3082 (S.237)**

**AGRICULTURE**

**The Environmentally Sensitive Areas (Scotland)  
Orders Amendment Regulations 1996**

<i>Made</i>	- - - -	<i>9th December 1996</i>
<i>Laid before Parliament</i>		<i>10th December 1996</i>
<i>Coming into force</i>	- -	<i>1st January 1997</i>

The Secretary of State, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on him by that section and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1.—(1) These Regulations may be cited as the Environmentally Sensitive Areas (Scotland) Orders Amendment Regulations 1996 and shall come into force on 1st January 1997.

(2) In these Regulations “the principal Orders” means the statutory instruments set out in the Schedule to these Regulations.

(3) In these Regulations any reference to the Schedule shall, unless the context otherwise requires, be construed as a reference to the Schedule to these Regulations.

**Application**

2. These Regulations apply to—

- (a) agreements made before 1st January 1997 under section 18(3) of the Agriculture Act 1986<sup>(3)</sup> as regards land in an area designated by the principal Orders but only in respect of action taken and events occurring from that date; and
- (b) agreements made on or after that date under that section as regards such land.

**Amendment of the principal Orders**

3. In article 2(1) (interpretation) of the principal Orders—

---

(1) [S.I. 1972/1811](#).  
(2) [1972 c. 68](#).  
(3) [1986 c. 49](#).

- (a) before the definition of “conservation plan” or, as the case may be, the definition of “common grazings committee” there shall be inserted—

““Commission Regulation” means Commission Regulation (EC) No. 746/96(4) laying down detailed rules for the application of the Council Regulation;”;

- (b) after the definition of “conservation plan” there shall be inserted—

““Council Regulation” means Council Regulation (EEC) No. 2078/92(5) on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside as last amended by Commission Regulation (EC) No. 2772/95(6);”;

4. After article 5 of the principal Orders set out in Part I of the Schedule there shall be inserted—

**“Penalty in the event of breach of agreement**

**5A.** In the event of breach of an agreement, the Secretary of State may, by way of penalty imposed by virtue of Article 20(2) (reimbursement of aid and penalties) of the Commission Regulation, withhold from or, as the case may be, require the farmer to pay an amount not exceeding 10% of the aid payable, including any amount already paid, to the farmer in respect of that agreement in addition to withholding or, as the case may be, recovering such aid.

**Recovery of interest**

**5B.—(1)** Where by virtue of Article 11 of the Commission Regulation a farmer is required to reimburse in accordance with Article 20(1) of the Commission Regulation the aid paid under an agreement, the rate of interest shall be that provided in paragraph (2).

(2) Where a farmer is by virtue of Article 20(1) of the Commission Regulation required to reimburse the amount of a wrongful payment with interest for the period between payment and the reimbursement, the rate of interest shall be one percentage point above the sterling three month London interbank offered rate applicable during the period.”.

5. After article 5 of the principal Orders set out in Part II of the Schedule there shall be inserted—

**“Penalty in the event of breach of agreement**

**5A.** In the event of breach of an agreement, the Secretary of State may, by way of penalty imposed by virtue of Article 20(2) (reimbursement of aid and penalties) of the Commission Regulation, withhold from or, as the case may be, require the crofter, farmer or common grazings committee to pay an amount not exceeding 10% of the aid payable, including any amount already paid, to the crofter, farmer or common grazings committee in respect of that agreement in addition to withholding or, as the case may be, recovering such aid.

**Recovery of interest**

**5B.—(1)** Where by virtue of Article 11 of the Commission Regulation a crofter, farmer or common grazings committee is required to reimburse in accordance with Article 20(1) of the Commission Regulation the aid paid under an agreement, the rate of interest shall be that provided in paragraph (2).

---

(4) OJ No. L102, 25.4.96, p.19.  
(5) OJ No. L215, 30.7.92, p.85.  
(6) OJ No. L288, 1.12.95, p.35.

(2) Where a crofter, farmer or common grazings committee is by virtue of Article 20(1) of the Commission Regulation required to reimburse the amount of a wrongful payment with interest for the period between payment and the reimbursement, the rate of interest shall be one percentage point above the sterling three month London interbank offered rate applicable during the period.”.

6. After article 5B(2) of the principal Orders which is inserted by regulation 4 or, as the case may be, regulation 5 of these Regulations there shall be inserted–

“(3) In any proceedings for recovery of interest calculated at the rate provided in paragraph (2), a certificate of the Secretary of State stating such rate applicable during a period specified in the certificate shall be conclusive evidence of that rate if the certificate also states that the Bank of England notified the Secretary of State of that rate.

### **Recovery of payments**

5C. Where an amount falls to be paid to the Secretary of State by virtue of (or by virtue of action taken under) this Order or the Commission Regulation, such amount shall be recoverable as a debt.”.

St Andrew’s House,  
Edinburgh  
9th December 1996

*Lindsay*  
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.*

## SCHEDULE

Article 1(2)

## PRINCIPAL ORDERS

## PART I

<i>Title of Instrument</i>	<i>Number of Instrument and of any amending instrument</i>
1. The Environmentally Sensitive Areas (Loch Lomond) Designation Order 1992	1992/1919; amended by 1992/2062, 1994/3067 and 1995/3097
2. The Environmentally Sensitive Areas	1992/1920; amended by 1992/2063, 1994/3067, (Breadalbane) Designation Order 1992 1995/3096
3. The Environmentally Sensitive Areas Central Southern Uplands) Designation Order 1993	1993/996; amended by 1994/3067 and 1996/1969
4. The Environmentally Sensitive Areas (Western Southern Uplands) Designation Order 1993	1993/997; amended by 1994/3067 and 1996/1968
5. The Environmentally Sensitive Areas (Cairngorms Straths) Designation Order 1993	1993/2345; amended by 1994/3067 and 1996/1963
6. The Environmentally Sensitive Areas (Stewartry) Designation Order 1993	1993/2768; amended by 1994/3067 and 1996/1967
7. The Environmentally Sensitive Areas (Central Borders) Designation Order 1993	1993/2767; amended by 1994/3067 and 1996/1964

## PART II

8. The Environmentally Sensitive Areas (Argyll Islands) Designation Order 1993	1993/3136; amended by 1994/3067 and 1996/1966
9. The Environmentally Sensitive Areas (Machair of the Uists and Benbecula, Barra and Watersay) Designation Order 1993	1993/3149; amended by 1994/3067 and 1996/1962
10. The Environmentally Sensitive Areas (Shetland Islands) Designation Order 1993	1993/3150; amended by 1994/3067 and 1996/1965

## EXPLANATORY NOTE

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

These Regulations amend a series of Orders (“the principal Orders”) made by the Secretary of State under section 18 of the Agriculture Act 1986 (c. 49) (“the 1986 Act”) which designate various areas of land in Scotland as environmentally sensitive areas.

The amendments made by this Order adapt the principal Orders to conform to the Commission Regulation (EC) No. 746/96 (“the Commission Regulation”) laying down detailed rules for the application of Council Regulation (EEC) No. 2078/92 (“the Council Regulation”) and in particular Articles 11 (transfer of holding) and 20 (reimbursement of aid and penalties) of the Commission Regulation (regulations 3 to 6).

In accordance with Article 23 of the Commission Regulation, the amendments apply to agreements made before 1st January 1997 but only in respect of action taken and events occurring from that date.