

---

STATUTORY INSTRUMENTS

---

**1996 No. 3083 (S.238)**

**AGRICULTURE**

**The Organic Aid (Scotland) Amendment Regulations 1996**

*Made* - - - - *9th December 1996*  
*Laid before Parliament* *10th December 1996*  
*Coming into force* - - *1st January 1997*

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 Organic Aid (Scotland) Amendment Regulations 1996 and shall come into force on 1st January 1997.

(2) In these Regulations, “the principal Regulations” means the Organic Aid (Scotland) Regulations 1994<sup>(3)</sup>.

**Application**

2. These Regulations apply with effect from 1st January 1997 to undertakings given before that date under the principal Regulations but only in respect of actions taken and events occurring from that date and to undertakings given on or after that date.

**Amendment of the principal Regulations**

3. In regulation 2(1) (interpretation) of the principal Regulations—

(a) after the definition of “beneficiary” there shall be inserted—

““Commission Regulation” means Commission Regulation (EC) No. 746/96<sup>(4)</sup> laying down detailed rules for the application of Council Regulation 2078/92;”;

(b) after the definition of “landlord” there shall be inserted—

---

(1) S.I.1972/1811.  
(2) 1972 c. 68.  
(3) S.I. 1994/1701.  
(4) OJ No. L102, 25.4.96, p.19.

- “LIBOR” means the sterling three month London interbank offered rate;”;
- (c) for the definitions of “organic farming” and “organic standards” there shall be substituted—
- ““organic farming” means farming in accordance with UKROFS standards;”;
- (d) for the definition of “UKROFS” there shall be substituted—
- ““UKROFS standards” means the United Kingdom Register of Organic Food Standards production standards (as amended from time to time) for organic farming published by the Ministry of Agriculture, Fisheries and Food and known as the UKROFS Standards for Organic Food Production.”
4. In regulation 4 (conditions of eligibility) of the principal Regulations for paragraph (1)(c) there shall be substituted—
- “(c) is not prohibited from giving the undertakings set out in regulation 5 by application of a penalty pursuant to Article 20(2) (reimbursement of aid and penalties) of the Commission Regulation; and
- (d) is not excluded from all aid under the Council Regulations by virtue of Article 20(3) of the Commission Regulation.”.
5. For regulation 6(4) (crofters common grazings) of the principal Regulations there shall be substituted—
- “(4) Where a grazings committee propose to apply under paragraph (1) they shall prior to making the application give notice of their intention to do so and of their proposed division of aid under paragraph (3) by advertisement or otherwise to the crofters ordinarily resident in the township and sharing in the common grazing, and any such crofter may within one month of the date of such notice make representation in respect of the proposals to the Crofters Commission who may approve them with or without modification or reject them.”.
6. In regulation 7(1) (application for aid) of the principal Regulations—
- (a) for sub-paragraph (a)(iii) and (iv) there shall be substituted—
- “(iii) the area of land, if any, which already meets UKROFS standards; and
- (iv) the area of land, if any, on which organic farming is to be introduced or which is in the course of conversion to organic farming”;
- (b) for sub-paragraph (d) and (e) there shall be substituted—
- “(d) where the applicant chooses to phase the conversion of his farm to organic farming, a written statement of the conversion plan; and
- (e) confirmation that his conversion proposals meet UKROFS standards.”; and
- (c) there shall be added at the end—
- “(f) where an application is made by a grazings committee—
- (i) the written consent of a majority of the crofters ordinarily resident in the township and sharing in the common grazing to the application; and
- (ii) evidence that notice has been given in accordance with regulation 6(4); and
- (iii) confirmation from the Crofters Commission that the Commission has approved the application or, as the case may be, has received no representation under regulation 6(4).”.
7. In regulation 9 (change of occupation) of the principal Regulations—
- (a) in paragraph (5) the words “(a) the new occupier shall be deemed to be a beneficiary; and (b)” shall be omitted; and
- (b) there shall be added at the end—

“(9) The provisions of this Regulation are subject to Article 11 (transfer of holding) and Article 12 (force majeure) of the Commission Regulation and where by virtue of Article 11 a beneficiary is required to reimburse, in accordance with Article 20(1) of the Commission Regulation, the aid paid, the rate of interest shall be that provided in regulation 12A.”.

8. For regulation 10 (amounts of aid and claims) of the principal Regulations there shall be substituted—

**“Amounts of aid and claims**

10.—(1) Subject to regulations 9(6), 10(3) and 12(1) and (2), payments shall be made annually in arrear and the amount of each payment shall be calculated in accordance with the Schedule to these Regulations.

(2) Payments shall be made in respect of a maximum of 300 hectares per holding or common grazing.

(3) A claim for each annual payment under paragraph (1) above shall be made at such time and in such form and shall contain such information as the Secretary of State reasonably may require.

(4) The provisions of this Regulation are subject to Articles 14(2) and (3) (rules governing undertakings and payment procedures) of the Commission Regulation and, in the case of an undertaking under these regulations given on or after 1st January 1997, Article 10 (combination of aids) of the Commission Regulation.”.

9. In regulation 12 (withholding and recovery of aid) of the principal Regulations—

- (a) in paragraph (1) the words “in a material respect” shall be omitted;
- (b) in paragraph (2)(a) and (b) the words “without reasonable excuse” shall be omitted;
- (c) there shall be added at the end—

“(4) The Secretary of State may, by way of penalty imposed by virtue of Article 20(2) of the Commission Regulation, withhold from or, as the case may be, require a beneficiary to whom paragraph (1) or (2) applies to pay an amount not exceeding 10% of the aid payable, including any amount already paid, to that beneficiary under the scheme in addition to withholding or as the case may be recovering aid under those paragraphs.”.

10. After regulation 12 of the principal Regulations there shall be inserted—

**“Recovery of Interest**

12A.—(1) Where a beneficiary 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 LIBOR in force during that period.

(2) In any proceedings for recovery of interest calculated at the rate provided in paragraph (1), 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**

12B. Where an amount falls to be paid to the Secretary of State by virtue of (or by virtue of an action taken under) these Regulations or the Commission Regulation, such amount shall be recoverable as a debt.”.

---

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

---

11. In the Schedule to the principal Regulations, paragraph 4 shall be omitted.

Scottish Office  
9th December 1996

*Lindsay*  
Parliamentary Under Secretary of State,

## EXPLANATORY NOTE

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

These Regulations amend the Organic Aid (Scotland) Regulations 1994 (“the principal Regulations”) which implement in part Council Regulation (EEC) No. 2078/92 (“the Council Regulation”) on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside.

The amendments made by these regulations adapt the principal Regulations to conform to the Commission Regulation (EC) No. 746/96 (“the Commission Regulation”) laying down detailed rules for the application of the Council Regulation and in particular Articles 10 (combination of aids) Article 11 (transfer of holding), Article 12 (force majeure), and Article 20 (reimbursement of aid and penalties) of the Commission Regulation. In accordance with Article 23 of the Commission Regulation, the amendments apply to undertakings given under the principal Regulations prior to 1st January 1997 but only in respect of action taken and events occurring from that date (regulations 3(a) and (b), 4, 7(b), 8, 9 and 10).

These Regulations make drafting amendments to the principal Regulations in response to the comments made in relation to those Regulations by the Joint Committee on Statutory Instruments in its 26th Report of the Session 1993-94 (HL Paper 89; HC 19-xxvii) (regulations 3(c) and (d), 5, 6, 7(a) and 11).