
STATUTORY INSTRUMENTS

1996 No. 3035 (S.229)

AGRICULTURE

The Habitats (Scotland) Amendment Regulations 1996

Made - - - - *2nd December 1996*
Laid before Parliament *9th December 1996*
Coming into force - - *1st January 1997*

The Secretary of State, being a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ 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 Habitats (Scotland) Amendment Regulations 1996 and shall come into force on 1st January 1997.

(2) In these Regulations, “the principal Regulations” means the Habitats (Scotland) Regulations 1994⁽³⁾.

Application

2. Regulations 3 to 8 of 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.

Amendment of the principal Regulations

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

(a) after the definition of “coastal heath” 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;

(1) S.I.1972/1811.

(2) 1972 c. 68.

(3) S.I. 1994/2710.

(4) OJ No. L102. 25.4.96, p.19.

“Council Regulation” means Council Regulation (EEC) 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⁾; and

(b) after the definition of “less-favoured area” there shall be inserted—

““LIBOR” means the sterling three month London interbank offered rate;”.

4. In regulation 3(1) (aid for improvement or establishment of habitats) of the principal Regulations there shall be added at the end—

“(e) is not excluded from all aid under the Council Regulation by virtue of Article 20(3) (reimbursement of aid and penalties) of the Commission Regulation.”.

5. In regulation 9 (change of occupation) of the principal Regulations 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.”.

6. In regulation 10(1) (amounts of aid and claims) of the principal Regulations for “12(1) and (2)” there shall be substituted “12(1), (2) and (4) and Article 20 of the Commission Regulation,”.

7. 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.”.

8. 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.

(5) OJ No. L215. 30.7.92, p.85.

(6) OJ No. L288. 1.12.95 p.35.

Transformation of undertakings

12C. Where by virtue of Article 13 (transformation of undertakings) of the Commission Regulation the Secretary of State authorises a transfer whereby a beneficiary under these regulations substitutes for the undertaking under these regulations another undertaking, the rights and obligations of the beneficiary in relation to the undertaking under these regulations shall, without prejudice to such rights and obligations as arose prior to the date of substitution, cease from that date.”.

Revocation

9.—(1) Subject to paragraph (2), the Habitats (Scotland) Regulations 1994 are hereby revoked.

(2) Notwithstanding the revocation effected by paragraph (1), the principal Regulations shall continue to apply or, in the case of provisions amended by regulations 3 to 8 of these regulations, apply as amended with effect from 1st January 1997 to undertakings given before that date under the principal Regulations.

Scottish Office
2nd December 1996

Lindsay
Parliamentary Under Secretary of State,

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Habitats (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 11 (transfer of holding), Article 12 (force majeure), Article 13 (transformation of undertakings) 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 principal Regulations prior to 1st January 1997 but only in respect of action taken and events occurring from that date (regulations 2-8).

The principal Regulations are revoked with a saving for undertakings given before 1st January 1997 (regulation 9).