1987 No. 654 (S. 54)

AGRICULTURE

The Environmentally Sensitive Areas (Loch Lomond) Designation Order 1987

Made - - - -	*1st April 1987*
Laid before Parliament	*15th April 1987*
Coming into force	*7th May 1987*

Whereas, as referred to in section 18(1) of the Agriculture Act 1986(a), it appears to the Secretary of State that it is particularly desirable–

(1) to conserve and enhance the natural beauty of the area referred to in article 3 of the following Order;

(2) to conserve the flora and fauna and geological and physiographical features of that area; and

(3) to protect buildings and other objects of archaeological interest in that area;

And whereas, as referred to in the said section 18(1) of the said Act, it appears that the maintenance and adoption of the agricultural methods specified in the Schedule to the following Order is likely to facilitate such conservation, enhancement and protection;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by section 18(1), (4) and (11) of the said Act, and of all other powers enabling him in that behalf, with the consent of the Treasury and after consultation with the Countryside Commission for Scotland and the Nature Conservancy Council as to the inclusion of the area referred to in article 3 of the following Order and the features for which conservation, enhancement and protection are desirable, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Environmentally Sensitive Areas (Loch Lomond) Designation Order 1987 and shall come into force on 7th May 1987.

Interpretation

2.—(1) In this Order–

"adjusted hectares" means the total number of hectares of enclosed land plus one sixth of the total number of hectares of other agricultural land included in any farm business;

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

"conservation plan" means a layout plan of the farm and an attached statement identifying relevant land and conservation features and setting out, as appropriate, details of how the requirements in the agreement will be implemented on the farm;

"enclosed land" means agricultural land enclosed by fences, hedges, walls or dykes for the closely controlled grazing of livestock, cropping or the maintenance of farm woodland;

(a) 1986 c.49.

"farm business" means a business or part of a business which engages in agricultural production for the purposes of trade;

"farm woodland" means woodland on agricultural land the use of which is ancillary to the farm business;

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

"livestock unit" means–

(a) 1 cow, or

(b) 1.25 bulls or other bovine animals over 2 years old, or

(c) 1.6 bovine animals from 1 year to 2 years old inclusive, or

(d) 2.5 bovine animals less than 1 year old, or

(e) 6.66 sheep;

"make muirburn" has the same meaning as in section 39(1)(f) of the Hill Farming Act 1946(**a**);

"open rough grazings" means heathland or moorland, which is not enclosed land, used for grazing purposes.

(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 Loch Lomond partly within the Stirling District of Central Region and partly within the Dumbarton District of Strathclyde Region, and located at the southern extremity of the Highlands stretching from Balloch in the South to Glenfalloch in the North and which area is shown delineated red and coloured pink on the map marked "Environmentally Sensitive Area - Loch Lomond" dated 27th March 1987 and signed on behalf of the Secretary of State for Scotland and deposited at the offices of the Department of Agriculture and Fisheries for Scotland, Chesser House, Gorgie Road, Edinburgh.

Requirements to be included in agreement

4. An agreement shall include the requirements specified in 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 farmer of the requirements referred to in article 4, the Secretary of State may give the farmer notice in writing terminating the agreement forthwith and may recover from the farmer 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(**b**) 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 shall be either at the rate of £15 per annum per hectare of enclosed land, with an additional payment of £2.50 per annum for each hectare of other land to which the agreement relates, or at the rate of £1,500 per annum per individual farm business, whichever is the lower.

(**a**) 1946 c.73.
(**b**) 1894 c.13 (57 & 58 Vict.).

(2) Payments in respect of farm businesses, comprising no more than 16 adjusted hectares of land to which an agreement relates, shall be at the rate of £240 per annum per farm business.

7. Where an agreement identifies expenditure required to undertake additional farming operations specified in paragraph 17(b) of the Schedule to this Order, the Secretary of State shall make additional payments according to the farming operations to be carried out. Such payments shall be at a rate to be determined by the Secretary of State, up to a maximum of £100 per annum for each hectare of land to which the agreement relates, or at the rate of £3,000 per annum per individual farm business, whichever is the lower.

John J. MacKay
Parliamentary Under Secretary of State,
Scottish Office

New St. Andrew's House, Edinburgh
27th March 1987

We consent,

Peter Lloyd
Tim Sainsbury
Two of the Lords Commissioners of Her Majesty's Treasury

1st April 1987

SCHEDULE

Article 4

REQUIREMENTS TO BE INCLUDED IN AN AGREEMENT AS REGARDS LAND WHICH IS THE SUBJECT OF AN AGREEMENT

1. The farmer shall not graze open rough grazings with cattle or sheep at an annual average stocking rate exceeding 0.50 livestock units per hectare.

2. The farmer shall manage his open rough grazings and other permanent pasture to avoid poaching and over-grazing.

3. The farmer shall not plough, level, re-seed or cultivate open rough grazings.

4. The farmer shall not apply herbicides to open rough grazings except to control bracken (*pteridium aquilinum*), spear thistle (*cirsium vulgare*), creeping or field thistle (*cirsium arvense*), curled dock (*rumex crispus*), broadleaved dock (*rumex obtusifolius*) or ragwort (*senecio jacobaea*). Any herbicides used must be applied by weed wiper, spot treatment or hand spraying only. In the case of bracken (*pteridium aquilinum*), control shall only be by means of asulam or other chemicals approved by the Secretary of State.

5. The farmer shall not apply pesticides to open rough grazings.

6. The farmer shall retain existing areas of heather; make muirburn as required for good heather management in accordance with the standards set out in the joint report of the Department of Agriculture and Fisheries for Scotland and the Nature Conservancy Council entitled "A Guide to Good Muirburn Practice"; and undertake such other measures to regenerate the heather as may be necessary.

7. The farmer shall ensure that no pollution due to the escape of silage effluent, sheep dip or other pollutant occurs.

8. The farmer shall not remove any hedges, dykes or walls unless prior approval in writing has been obtained from the Secretary of State, which approval will only be granted in exceptional circumstances.

9. The farmer shall maintain stockproof dykes in a stockproof condition and maintain all hedges in the interests of conservation.

10. The farmer shall follow the Secretary of State's guidance on farming practices for areas of archaeological interest.

11. The farmer shall obtain prior approval in writing from the Secretary of State for any tree planting proposals not submitted to the Forestry Commission under the forestry grant schemes.

12. The farmer shall comply with the Forestry Commission's felling control procedures in respect of farm woodland or hedgerow trees.

13. The farmer shall follow the guidance set out in "Loch Lomond: Agricultural Developments and Works: A Code of Practice".

14. The farmer shall obtain prior approval in writing from the Secretary of State before commencing the construction or significant re-alignment or improvement of vehicular tracks.

15. The farmer shall obtain written advice from the Secretary of State before commencing the construction of new farm buildings or the carrying out of major renewal work to existing buildings.

16. The farmer shall discuss the content of any existing agriculture development or improvement plan (as approved under the terms of the Farm and Horticulture Development Regulations 1981(**a**), the Agriculture and Horticulture Development Regulations 1980(**b**), or the Agriculture Improvement Regulations 1985(**c**) with the Secretary of State before proceeding with any work included in that development or improvement plan.

17. The farmer shall prepare and agree with the Secretary of State a farm conservation plan for his land. The farm conservation plan shall–

(a) identify land and conservation features relevant to the requirements in paragraphs 1 to 16 above;

(b) contain details of the following additional farming operations to be carried out–

(i) the restoration of dykes, walls, hedges and hedgerow trees to standards consistent with conservation interests;

(ii) the enhancement of farm woodland through the erection of fencing to exclude grazing and other management measures as required.

(**a**) S.I. 1981/1707, amended by S.I. 1983/507, 925, 1762, 1984/620, 1924, 1985/1266 and 1986/1295.
(**b**) S.I. 1980/1298, amended by S.I. 1981/1708, 1983/508, 924, 1763, 1984/618, 1922 and 1985/1025.
(**c**) S.I. 1985/1266.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order designates as an environmentally sensitive area an area of Loch Lomond partly within the Stirling District of Central Region and partly within the Dumbarton District of Strathclyde Region (article 3). That area is designated for the purpose of conserving, protecting and enhancing the environmental features of the area by the maintenance or adoption of particular agricultural methods.

The map showing the designated area can be inspected during normal office hours at the offices of the Department of Agriculture and Fisheries for Scotland, Chesser House, Gorgie Road, Edinburgh.

The Secretary of State may enter into a management agreement with any person having an interest in agricultural land in a designated area and the Order specifies the requirements as to agricultural practices, methods and operations which must be included in such an agreement (article 4 and Schedule).

In the event of a breach of the specified requirements, the Secretary of State may terminate the agreement and recover sums paid under the agreement (article 5(a)). Any questions arising as to whether a breach of such requirements has occurred may be determined by arbitration (article 5(b)).

Payments made by the Secretary of State under an agreement are to be either–

(a) at the rate of £15 per year per hectare of enclosed land, with an additional payment of £2.50 per year for each hectare of other land, or

(b) at the rate of £1,500 per year for each individual farm business,

whichever is the lower (article 6(1)).

In the case of farm businesses of no more than 16 adjusted hectares, payments are to be at the rate of £240 per year for each farm business (article 6(2)). Where an agreement includes the additional farming operations set out in paragraph 17(b) of the Schedule additional payments are to be made either–

(a) at a rate to be determined by the Secretary of State, up to a maximum of £100 per year per hectare, or

(b) at the rate of £3,000 per year for each individual farm business,

whichever is the lower (article 7).

Copies of "Loch Lomond: Agricultural Developments and Works: A Code of Practice" of June 1986 may be obtained free of charge from the Department of Agriculture and Fisheries for Scotland at the address quoted above.

Copies of the report "A Guide to Good Muirburn Practice" published in 1977 may be obtained from Her Majesty's Stationery Office price £1.50 (ISBN 0 11 491463 X).