

# Environmental Stewardship: Addendum to 2nd edition (2008), 3rd edition (2010) and 4th edition (2013), Entry Level, Organic Entry Level, Uplands Entry Level and Higher Level Stewardship handbooks.

**Effective from 1 January 2023**

## **Introduction**

Defra has been working towards a position where all agri-environment agreements which began before 2021 under EU regulations can be aligned with UK (domestic) terms and conditions. This allows a simplification of the schemes to benefit existing customers and provide greater flexibility.

Environmental Stewardship (ES) was governed by EU Council Regulation 1698/2005 and Commission Regulations 1974/2006, and 65/2011 (as amended or as may be amended). These Regulations were incorporated into domestic law by virtue of the EU (Withdrawal) Act 2018.

ES is closed to new applicants, this update to the handbooks applies only to those customers already holding an existing ES Higher Level Stewardship (HLS) agreement.

The following sections of the handbook, originally provided to support your agreement, have been changed and will replace those previously described, effective from 1 January 2023. This update is based on Section 5 of the 2013 HLS Handbook (4<sup>th</sup> edition).

Previous editions of HLS Handbooks are also being updated (which include Entry Level Stewardship (ELS) Organic ELS (OELS) and Uplands ELS (UELS) in 2008 (2<sup>nd</sup> edition), 2010 (3<sup>rd</sup> edition), and 2013 (4<sup>th</sup> edition) as set out in the tables in this document.

## **Main changes to handbooks**

The main changes to the handbooks are described in this section.

### **Scheme control: administrative checks and site visits**

We are providing agreement holders and administrators the flexibility on how we carry out checks, including site visits, administrative checks, and in evidence requirements. This includes allowing for longer notice periods to be given to agreement holders prior to a site visit and potentially allowing for some site visits to be carried out virtually. These are designed to reduce the administrative burden relating to managing an agreement.

### **Breaches of agreement and payment reductions**

If there is a difference between the amount you have claimed and the amount you are due to receive, your claim will be reduced once we have completed our checks. If we have already paid you, we will recover the difference. Additional penalties will not be applied but reductions will still apply to late payment claims.

### **Greater flexibility to transfer between schemes**

We are providing agreement holders an opportunity to end their agreement early, without recovery, if they have been successful in securing an agreement, which provides equivalent environmental measures, in a new land management scheme.

### **Land transfers**

More discretion has been provided over the recovery of previous land management payments where agreement land is transferred to a new owner who does not continue the agreement.

### **Exceptional circumstances (force majeure)**

We are increasing the notification period from 15 days to 8 weeks to give agreement holders more time to make their case.

## Replaced sections

See the replaced sections table to see which sections of the handbooks have had text replaced.

### **Scheme control: administrative checks and site visits**

We are required to make sure that ES is properly controlled, to protect public money. To support this, we undertake administrative checks and site visits to monitor Agreement holder compliance with the rules governing their agreements (and cross compliance on the whole holding) and the success of ES overall.

We undertake 3 main checks:

- administrative record checks
- agreement monitoring visits
- site visits

You must allow the Rural Payments Agency (RPA) (or their authorised representatives or auditors) to access your land or premises to carry out ES site visits. Other UK public authorities may also visit you to make sure you are meeting cross compliance requirements. Natural England, the Forestry Commission or Historic England may also visit your site to monitor environmental progress or check that you are following specific management.

You must help and co-operate with any person carrying out a site visit. Any refusal to do so or obstruction will be treated as a breach of the ES terms and conditions, and you may face recovery, suspension or termination of your agreement.

We may also refuse any application to enter into a new agreement for financial assistance support under any financial assistance schemes under section 1 of the Agriculture Act 2020 for up to 2 years from the day after the date of termination.

### **Administrative record checks**

During the whole agreement period, we will check all stages of the process, including your application form, claim forms and, where appropriate, the nature and quality of any supporting evidence, such as receipts and farm records. This is to make sure that various forms and records match up during the whole agreement period.

If you do not provide records when asked, or there are discrepancies, we will treat this as a breach of your agreement. It is your responsibility to keep such records if you want to rely on this to support your claim.

## Agreement monitoring visits

Advisers may visit sites to monitor environmental progress, discuss site reports, or if you ask your Natural England adviser to visit.

Results from these visits will be discussed with the RPA and appropriate action taken.

## Site visits

Each year, we will carry out site visits on a sample of agreements, to make sure environmental aims are being delivered and scheme aims, or requirements have been met. Unless we have reasons to suspect that you are in breach of your agreement, where we may visit unannounced, we will seek to agree a date and time for a site visit where possible. If not, you will be notified at least 48 hours in advance of the site visit.

If there is uncertainty about whether or not the aims of the options have been delivered, we will take into account any records or evidence you may have kept demonstrating delivery of the aims of the option. This includes any steps you've taken to follow the management set out in your agreement.

We recommend that you obtain and keep evidence to show you have followed the management of your agreement to support your claim or to support a site visit. Records will help demonstrate that you have carried out the activities in your agreement and that the funded activity is taking or has taken place. It also helps demonstrate that public money is being spent effectively and is delivering the intended results.

It is your responsibility to keep such records if you want to rely on these to support your claim.

For capital items, you must follow the requirements for the specific item, including any specifications you need to adhere to and retain any records that are required to support your claim.

If at the visit we find a breach of the rules, we may apply reductions (read section on Payment reductions). You can find more information on site visits at [Guidance and Forms for Agreement Holders](https://www.gov.uk/government/collections/environmental-stewardship-guidance-and-forms-for-existing-agreement-holders) <https://www.gov.uk/government/collections/environmental-stewardship-guidance-and-forms-for-existing-agreement-holders> on GOV.UK.

## Replaced sections

### Inspecting and monitoring your agreement

Edition	HLS	ELS	OELS
4th edition 2013	5.5.8	5.5.7	5.5.7
3rd edition 2010	1.1.10	1.1.11 and 1.6.7	1.1.12 and 1.6.7
2nd edition 2008	No reference	1.2.8 and 1.5.7	1.2.10 and 1.5.7

### Keep necessary records

Edition	HLS	ELS	OELS
4th edition 2013	5.5.9	5.5.10	5.5.10
3rd edition 2010	No reference	1.6.10	1.6.11
2nd edition 2008	No reference	1.5.10	1.5.12

## Variation of your agreement by us

See the amended text section that replaces text in your original handbook.

Occasionally, we may need to vary the agreement in line with changes to law and in other exceptional circumstances. In applying for the scheme, you accept that such changes may be made at any time. We will tell you about these changes on our website. Where the changes will significantly affect the land management required, or financial aspects of the agreement, we will tell you.

If adjustments are needed to meet changes in regulations, relevant mandatory standards, requirements or obligations but you are not prepared to accept these changes, your agreement will end. You may not need to repay monies received under the terms of your agreement.

## Terminating agreements by either party

We may at any time terminate your agreement and any future payments by giving you 6 months' written notice.

You may end your agreement at any time by giving RPA written notice. In these situations, you may need to repay all or part of the payments you have received. Your obligations under the agreement do not end until we have received this repayment.

The exception is where you are successful in securing an agreement in another land management scheme (for example, Countryside Stewardship (CS) or Environmental Land Management schemes, such as Local Nature Recovery) that will continue to deliver at least equivalent management. In this case, in agreement with the RPA, you will be able to end your existing HLS agreement early and without consequence.

## Replaced sections

Variation of your agreement by us (or by Natural England or by the Secretary of State (acting through Natural England))

Edition	HLS	ELS	OELS
4th edition 2013	5.6.7	5.6.7	5.6.7
3rd edition 2010	1.4.7	1.4.9	1.4.9
2nd edition 2008	4.4	4.7	4.9

## Exceptional circumstances (force majeure)

See the amended text section that replaces text in your original handbook

You may be unable to meet your requirements under the agreement because of force majeure or exceptional circumstances. If this happens, you (or any person authorised to act for you), must write to tell us, within 8 weeks from the date on which you are able to do so.

You will need to provide written evidence to show:

- what has happened
- how the event meant you were unable to meet the scheme rules

Force majeure or exceptional circumstances for a breach may include, but are not limited to:

- the death or long-term professional incapacity of the agreement holder
- a severe natural disaster gravely affecting the holding
- the accidental destruction of livestock buildings on the holding
- an epizootic or a plant disease affecting part or all, of the agreement holder's crops, trees or livestock
- expropriation of all or a large part of the holding (provided that the expropriation could not have been anticipated at the time the application for funding was made)

We will consider the facts to decide whether or not the Agreement Holder is relieved of all or part of their obligations under the agreement, and whether all or part of the grant should be withheld or repaid.

If you are aware of the issue when entering into your agreement, then it is unlikely to fall under force majeure or exceptional circumstances.

### Replaced sections

#### Exceptional circumstances (force majeure)

Edition	HLS	ELS	OELS
4th edition 2013	5.6.9	5.6.9	5.6.9
3rd edition 2010	1.4.10	1.4.8	1.4.10
2nd edition 2008	4.3	5.4	5.4

## Breaches of agreement

See the amended text section that replaces text in your original handbook

If we find breaches during administrative checks or any site visits, we will write to tell you and you will have the opportunity to make written representations if you feel that our findings are incorrect. These representations will be taken into consideration.

It is your responsibility to ensure that all agreement conditions are fulfilled, and that all information in your application and other correspondence is accurate. This is the case whether it is you or anybody else who causes a breach.

We will work out the level of reduction we need to apply by looking at the severity of the breach and whether it is an isolated or a repeat occurrence. We may apply a reduction to your current year's claim and to previous years' claims (under your agreement), unless you can demonstrate you were compliant in previous years.

We will assess what has happened due to the breach or non-compliance, consider the objectives of the agreement or options and the short or long-term impacts. For example, ploughing a priority habitat would be classed as a severe breach.

Factors considered and assessed for severity and level of reduction are:

- circumstances, nature and consequences surrounding the breach
- failure to cooperate with site visits, or further investigations
- steps taken to report a change in circumstances
- whether it is an isolated or a repeat occurrence
- whether it was intentional
- whether it was because of reckless or negligent action
- to what extent the breach can be rectified
- issue a letter explaining that we've assessed the breach and what you have to do
- amend your agreement

If there's a breach of your agreement or the regulations, we may ask you to correct the breach. For more serious breaches, we may:

- reduce the payments you get, or withhold part of them
- recover money we've already paid
- end your agreement

If RPA recovers money that has already been paid interest may be charged on outstanding money if it is not repaid within 60 days from the date on which the notification is given.

In exceptional circumstances where there is reasonable suspicion of a serious breach or fraud, then we may access land and your premises without notice, using powers of entry. In these circumstances, for example, as part of a fraud investigation, we may access any computer that's been used in connection with the evidence or these records.

## Payment reductions

If you breach the terms of your agreement or you do not meet the relevant eligibility criteria on all or part of your Agreement Land, we may reduce or withhold future grant payments and may recover payments you have already received.

We can only pay you for work carried out according to your agreement and the scheme rules.

### When reductions may apply

We may reduce the amount you have been or will be paid if you:

- have given false or misleading information
- have claimed payment on land which is not eligible or is not under your management control
- have not met the objectives of the options chosen
- have not followed the management requirements for an option (for example, where a hedgerow has been entered into a hedgerow management option that only permits cutting every other year, but has subsequently been cut annually)
- damage or remove your Farm Environment Record (FER) or Farm Environment Plan (FEP) features
- have over-claimed for capital works
- declare the total area of eligible land or claim ELS points or HLS payments for a particular option in a specific location, and these are found to be incorrect, or the option is not in that location (for example, a length of hedgerow on the boundary of one field is too short or is not there at all).
- have not followed the scheme rules
- have not met the cross compliance rules, where applicable
- have submitted a multi-year agreement claim late
- have submitted a change to a multi-year agreement claim late - this includes changes to supporting information or evidence

This is not a complete list and there may be other examples of where we will apply reductions.

In cases of force majeure or exceptional circumstances, we will consider the facts on a case-by-case basis before deciding whether to pay or reduce a claim, read the section on Exceptional Circumstances (force majeure) for more information.

## Breaches of cross compliance

You can find full details in the latest version of [The guide to cross compliance in England](https://www.gov.uk/guidance/guide-to-cross-compliance-in-england-2021) <https://www.gov.uk/guidance/guide-to-cross-compliance-in-england-2021> on GOV.UK. We will publish any changes to the requirements and any replacement for cross compliance on GOV.UK.

### Replaced sections

#### What is a breach of agreement?

Edition	HLS	ELS	OELS
4th edition 2013	5.7.1	5.7.1	5.7.1
3rd edition 2010	1.5.1	1.5.1	1.5.1
2nd edition 2008	4.1	5.2	5.2

#### What penalties could be applied?

Edition	HLS	ELS	OELS
4th edition 2013	5.7.2	5.7.2	5.7.2
3rd edition 2010	1.5.2	1.5.2	1.5.2
2nd edition 2008	No reference	5.2	5.2

## Amendments to handbooks

The following amendments have been made to the original handbooks.

### References to the European Union

The original handbooks include references to the EU. Where these relate to any obligation to, or requirement of, the EU, these may no longer be relevant. Agreement Holders should contact the RPA if they are unsure.

### Withdrawing from the scheme

Handbook	Current text	Amended text
<b>2008 2<sup>nd</sup> edition HLS Section 1.1.7, second paragraph</b>	Either party may withdraw from the agreement at the end of the fifth year, without penalty. Notice to withdraw must be given in writing at least one month before the end of the fifth year. You will be in breach of your agreement and will incur a penalty if you withdraw at any other time.	Either party may withdraw from the agreement at the end of the fifth year, without penalty. Notice to withdraw must be given in writing at least one month before the end of the fifth year.
<b>2008 2<sup>nd</sup> edition ELS and the OELS Section 1.1.3, 9<sup>th</sup> bullet</b>	Agreements will last 5 years. Your agreement with Natural England will be legally binding and you will be required to fulfil your obligations for the full term of your agreement. You will incur a penalty if you withdraw from the scheme early or breach the terms of your agreement (see Section 5). There is no penalty for transferring into (OELS or) HLS.	Agreements will last 5 years. Your agreement with Natural England will be legally binding and you will be required to fulfil your obligations for the full term of your agreement. There is no penalty for transferring into (OELS or) HLS.

Handbook	Current text	Amended text
<p><b>2010 3<sup>rd</sup> edition HLS Section 1.1.7, fourth paragraph</b></p>	<p>Either party may withdraw from the agreement at the end of the fifth year, without penalty. Notice to withdraw must be given in writing at least 1 month before the end of the fifth year. You will be in breach of your agreement and will incur a penalty if you withdraw at any other time.</p>	<p>Either party may withdraw from the agreement at the end of the fifth year, without penalty. Notice to withdraw must be given in writing at least 1 month before the end of the fifth year.</p>
<p><b>2010 3<sup>rd</sup> edition HLS and the OELS Section 1.1.8, second paragraph</b></p>	<p>Agreements will last 5 years. Your agreement with Natural England will be legally binding and you will be required to fulfil your obligations for the full term of your agreement. You will incur a penalty if you withdraw from the scheme early or breach the terms of your agreement (see Section 1.5). There is no penalty for transferring, with Natural England's approval into Uplands ELS, OELS or HLS.</p>	<p>Agreements will last 5 years. Your agreement with Natural England will be legally binding and you will be required to fulfil your obligations for the full term of your agreement. There is no penalty for transferring, with Natural England's approval into Uplands ELS, OELS or HLS.</p>
<p><b>2013 4<sup>th</sup> edition HLS Section 5.2.1, final paragraph</b></p>	<p>Either party may withdraw from the agreement at the end of the fifth year without penalty. Notice to withdraw must be given in writing at least one month before the end of the fifth year. You will be in breach of your agreement and will incur a penalty if you withdraw at any other time</p>	<p>Either party may withdraw from the agreement at the end of the fifth year without penalty. Notice to withdraw must be given in writing at least one month before the end of the fifth year.</p>

Handbook	Current text	Amended text
2013 4 <sup>th</sup> edition ELS and OELS Section 5.2.3	Agreements last five years and you must fulfil your obligations for the full five-year term. You will incur a penalty if you withdraw from the scheme early or breach the terms of your agreement (see Section 5.7). There is no penalty if you transfer, with our approval, into Uplands OELS or HLS.	Agreements last five years and you must fulfil your obligations for the full five-year term. There is no penalty if you transfer, with our approval, into Uplands OELS or HLS.

## Transfers of agreements

Handbook	Current text	Amended text
2008 2 <sup>nd</sup> edition ELS Section 4.2.1 and 2008 2 <sup>nd</sup> edition HLS Section 3.2.1	You must contact your RPA office to confirm the lease, sale or transfer in writing, identifying the new occupier. As indicated above, your whole agreement must be transferred to the new occupiers and either continue to its original expiry date or be re-started as a new agreement. If this does not happen, you will be in breach of your agreement. As indicated above, your whole agreement must be transferred to the new occupier(s) and either continue to its original expiry date or be re-started as a new agreement. If this does not happen, you will be in breach of your agreement.	You must contact your RPA office to confirm the lease, sale or transfer in writing, identifying the new occupier. [Amended text] - The agreement, or the part corresponding to the land transferred, may be taken over for the remainder of the period by that other person or may expire at the point of transfer. You will not be required to repay any sums for annual management which predate the transfer of the agreement.

Handbook	Current text	Amended text
<p><b>2008 2<sup>nd</sup> edition OELS Section 4.2.1</b></p>	<p>You must contact your RPA office to confirm the lease, sale or transfer in writing, identifying the new occupier. As indicated above, your whole agreement must be transferred to the new occupier/s and either continue to its original expiry date or be re-started as a new agreement. If this does not happen, you will be in breach of your agreement. This includes ensuring that there is no break in organic registration and management across the entire OELS land.</p>	<p>You must contact your RPA office to confirm the lease, sale or transfer in writing, identifying the new occupier. [Amended text] The agreement, or the part corresponding to the land transferred, may be taken over for the remainder of the period by that other person or may expire at the point of transfer. You will not be required to repay any sums for annual management which predate the transfer of the agreement. This includes ensuring that there is no break in organic registration and management across the entire OELS land.</p>
<p><b>2010 3<sup>rd</sup> edition OELS Section 1.4.4</b></p>	<p>You must tell the prospective owner or occupier about your agreement before you transfer any existing agreement land. If the new owner or occupier does not continue with the agreement on the transferred land, and/or Natural England does not receive their new application within 4 months of the actual date of transfer, you, not the new owner or occupier, will be in breach of your agreement and you are likely to have to repay all or a part of the grant you have received.</p>	<p>You must tell the prospective owner or occupier about your agreement before you transfer any existing agreement land. [Amended text]- The agreement, or the part corresponding to the land transferred, may be taken over for the remainder of the period by that other person or may expire at the point of transfer. You will not be required to repay any sums for annual management which predate the transfer of the agreement.</p>

Handbook	Current text	Amended text
<p><b>2010 3<sup>rd</sup> edition ELS</b>  <b>Section 1.4.2</b></p>	<p>You must tell the prospective owner or occupier about your agreement before you transfer any existing agreement land. If the new owner or occupier does not continue with the agreement on the transferred land, and/or Natural England does not receive their new application within 4 months of the actual date of transfer, you, not the new owner or occupier, will be in breach of your agreement and you are likely to have to repay all or a part of the grant you have received.</p>	<p>You must tell the prospective owner or occupier about your agreement before you transfer any existing agreement land. [Amended text] - The agreement, or the part corresponding to the land transferred, may be taken over for the remainder of the period by that other person or may expire at the point of transfer. You will not be required to repay any sums for annual management which predate the transfer of the agreement.</p>
<p><b>2010 3<sup>rd</sup> edition HLS</b>  <b>Section 1.4.4</b></p>	<p>You must tell the prospective owner or occupier about your agreement before you transfer any existing agreement land. If the new owner or occupier does not continue with the agreement on the transferred land, and/or Natural England does not receive their new application within 6 months of the actual date of transfer, you, not the new owner or occupier, will be in breach of your agreement and you are likely to have to repay all or a part of the grant you have received.</p>	<p>You must tell the prospective owner or occupier about your agreement before you transfer any existing agreement land. [Amended text] - The agreement, or the part corresponding to the land transferred, may be taken over for the remainder of the period by that other person or may expire at the point of transfer. You will not be required to repay any sums for annual management which predate the transfer of the agreement.</p>

Handbook	Current text	Amended text
<p>2013 4<sup>th</sup> edition HLS, ELS and the OELS Section 5.6.2, third and fourth paragraphs</p>	<p>You must tell the prospective owner or occupier about your agreement before you transfer any existing agreement land. If the new owner or occupier does not continue with the agreement on the transferred land, and/or Natural England does not receive their new application within four months (for land transferring into ELS/OELS agreements) or six months (for land transferring into HLS agreements) of the actual date of transfer, you, not the new owner or occupier, will be in breach of your agreement and you are likely to have to repay all or a part of the grant you have received. If you transfer all of your agreement land, you must contact the RPA in writing no later than three months after the commencement date of lease, the completion date of sale or the actual date of transfer to confirm the transfer, identifying the new owner or occupier. In these circumstances, your whole agreement must be transferred to the new owner or occupier and either continue to its original expiry date or be restarted as a new agreement, otherwise we will be required to recover all payments to you. (OELS only) This includes ensuring that there is no break in organic registration and management across the entire OELS agreement area.</p>	<p>You must tell the prospective owner or occupier about your agreement before you transfer any existing agreement land. If you transfer all of your agreement land, you must contact the RPA in writing no later than three months after the commencement date of lease, the completion date of sale or the actual date of transfer to confirm the transfer, identifying the new owner or occupier. In these circumstances, your whole agreement must be transferred to the new owner or occupier, or it will expire at the point of transfer. (OELS only) This includes ensuring that there is no break in organic registration and management across the entire OELS agreement area.</p>