

1988 No. 91

AGRICULTURE

Environmentally Sensitive Areas (Mourne Mountains and Slieve Croob) Designation Order (Northern Ireland) 1988

Made 21st March 1988

Coming into operation 1st May 1988

Whereas, in accordance with Article 3(1) of the Agriculture (Environmental Areas) (Northern Ireland) Order 1987(a), it appears to the Department of Agriculture that it is particularly desirable—

- (1) to conserve and enhance the natural beauty of the area referred to in Article 3;
- (2) to conserve the flora and fauna and geological and physiographical features of that area; and
- (3) to protect buildings and other objects of historic interest in that area;

And whereas, in accordance with the said Article 3(1) of the said Order it appears to the Department that the maintenance and adoption of the agricultural methods specified in the Schedule is likely to facilitate the aforementioned conservation, enhancement and protection;

Now, therefore, the Department, in exercise of the powers conferred on it by Article 3(1) and (3) of the said Order, and of every other power enabling it in that behalf, with the consent of the Department of Finance and Personnel hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Environmentally Sensitive Areas (Mourne Mountains and Slieve Croob) Designation Order (Northern Ireland) 1988 and shall come into operation on 1st May 1988.

Interpretation

2. In this Order—

“agreement” means an agreement under Article 3(2) of the Agriculture (Environmental Areas) (Northern Ireland) Order 1987 as respects agricultural 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;

“the Department” means the Department of Agriculture;

(a) S.I. 1987/458 (N.I. 3)

“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;

“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 estate in agricultural land in the area designated by Article 3 and who has entered into an agreement with the Department;

“species rich pasture” means enclosed land used for grazing which contains a significant number of plant species and which has not previously been treated with a significant amount of artificial or mineral fertiliser or lime;

“wetland” or “marsh” means any ground which is normally saturated with water.

Designation of environmentally sensitive area

3. The Department hereby designates as an environmentally sensitive area that area of land in the Mourne Mountains and Slieve Croob in County Down which is shown coloured yellow on the map marked “Map of Mourne Mountains and Slieve Croob Environmentally Sensitive Area” dated 21st March 1988, signed and sealed by the Secretary of the Department and deposited at the offices of the Department at Magnet House, 81-93 York Street, Belfast, BT15 1AD.

Requirements to be included in agreement

4. An agreement shall include the requirements specified in the Schedule as to agricultural practices, methods and operations and the installation and use of equipment on land to which it relates.

Provisions as to breach of requirements to be included in agreement

5. An agreement shall include provisions that:—

(a) in the event of a breach by the farmer of the requirements referred to in Article 4, the Department may give the farmer notice in writing terminating the agreement forthwith and may recover on demand from the farmer as a civil debt an amount equivalent to the whole or any part of the payments made to him by the Department under the agreement;

(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 arbitrator to be agreed between the parties or in default of such agreement to be appointed by the Chairman for the time being of the Northern Ireland Branch of the Royal Institution of Chartered Surveyors and in accordance with the provisions of the Arbitration Act (Northern Ireland) 1937(a) or any

statutory modification or re-enactment thereof for the time being in force.

Rates of payment under agreement and limits

6. Payments made by the Department under an agreement shall be at the rate of £30 per annum for each hectare of land to which the agreement relates subject to a maximum payment of £1,000 per annum in the case of any farm business.

Sealed with the Official Seal of the Department of Agriculture on 21st March 1988.

(L.S.)

L. Sinclair

Assistant Secretary

The Department of Finance and Personnel hereby consents to the foregoing Order.

Sealed with the Official Seal of the Department of Finance and Personnel on 21st March 1988.

(L.S.)

Joan O. M. Frame

Assistant Secretary

SCHEDULE

Article 4

1. The farmer shall prepare and agree with the Department a farm conservation plan for his land which shall identify any conservation features relevant to the requirements in paragraphs 2 to 17.
2. The farmer shall maintain stock-proof walls and hedges in a stock-proof condition using traditional methods and materials.
3. The farmer shall maintain any weatherproof traditional farm building which he owns or the exterior of which he has a liability to repair in a weatherproof condition using traditional materials.
4. The farmer shall retain and maintain traditional gates and gate posts.
5. The farmer shall maintain existing field patterns and shall not remove any hedge, dyke or wall except with the written permission of the Department.
6. The farmer shall not carry out any land reclamation work unless written prior approval has been obtained from the Department.
7. The farmer shall not apply pesticides or herbicides to hedgerow bottoms except with the written permission of the Department.
8. The farmer shall not apply herbicides to species rich pastures except to control bracken, spear thistle, creeping or field thistle, curled dock, broadleaved dock or ragwort. Herbicides used for these purposes shall be applied by weed wiper or spot treatment. In the case of bracken, control shall be by means of asulam or other chemical approved by the Department.
8. The farmer shall maintain existing ponds, streams and rivers and shall retain associated fringe vegetation.
10. The farmer shall retain existing areas of marsh and wetlands.
11. The farmer shall retain existing areas of heather and undertake measures necessary to regenerate the heather.
12. The farmer shall obtain written advice from the Department on maintaining farm woodland and existing hedgerow trees.
13. The farmer shall obtain written advice from the Department on any tree planting proposals which are not to be carried out under its forestry grants schemes.
14. The farmer shall ensure that no pollution due to the escape of silage effluent sheep dip or other pollutant occurs.
15. The farmer shall ensure that in farming the land he does not damage or destroy any feature of historic interest.
16. The farmer shall obtain written advice from the Department before commencing the construction or reconstruction of farm roads.
17. The farmer shall obtain written advice from the Department before commencing the construction of new farm buildings or the carrying out of major renewal work to existing buildings.

EXPLANATORY NOTE

(This note is not part of the Order.)

Article 3(1) of the Agriculture (Environmental Areas) (Northern Ireland) Order 1987 ("the Order") gives the Department of Agriculture ("the Department") power to designate an area in Northern Ireland as an environmentally sensitive area where it appears to the Department particularly desirable to conserve, protect or enhance environmental features in that area by the maintenance or adoption of particular agricultural methods.

This Order designates an area in the Mourne Mountains and Slieve Croob as an environmentally sensitive area (Article 3). The area is defined by reference to a map which is available for inspection during normal office hours at the offices of the Department at Magnet House, 81/93 York Street, Belfast BT15 1AD. Copy maps are available for inspection at any reasonable hour at the County Agricultural Executive Office, Knockbreda Crown Buildings, Upper Knockbreda Road, Belfast BT8 4SU and the Department's local Agricultural Offices in Ballynahinch, Kilkeel, Newcastle and Rathfriland, County Down.

Article 3(2) of the Order enables the Department to enter into a management agreement with any person entitled to an estate specified in Article 3(6) of the Order in agricultural land in a designated area if the Department considers that conservation of environmental features in that area may be thereby facilitated, and this Order specifies requirements as to agricultural practices, methods and operations and the installation and use of equipment which must be included in such an agreement (Article 4 and the Schedule).

This Order also contains provisions for recovery of sums paid by the Department under such an agreement in the event of a breach of the specified requirements, and for the determination by arbitration of any question as to whether a breach of those requirements has occurred (Article 5). Payments to be made by the Department under an agreement are to be at the rate of £30 per year per hectare of land to which the agreement relates subject to a maximum of £1,000 per year in the case of any farm business (Article 6).