
STATUTORY INSTRUMENTS

1993 No. 83

AGRICULTURE

**The Environmentally Sensitive Areas
(Exmoor) Designation Order 1993**

<i>Made</i>	- - - -	<i>15th January 1993</i>
<i>Laid before Parliament</i>		<i>22nd January 1993</i>
<i>Coming into force</i>	- -	<i>13th February 1993</i>

Whereas, as mentioned in section 18(1) of the Agriculture Act 1986⁽¹⁾, it appears to the Minister of Agriculture, Fisheries and Food (“the Minister”) 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 historic interest in that area;

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

Now, therefore, the Minister, in exercise of the powers conferred on him by section 18(1) and (4) 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 Secretary of State, the Countryside Commission and the Nature Conservancy Council for England⁽²⁾ as to the inclusion of the area referred to in article 3 of the following Order and the features of that area for which conservation, enhancement and protection are desirable, hereby makes the following Order:

Title and commencement

1. This Order may be cited as the Environmentally Sensitive Areas (Exmoor) Designation Order 1993 and shall come into force on 13th February 1993.

Interpretation

2.—(1) In this Order—

⁽¹⁾ 1986 c. 49. The expression “the Minister” is defined in section 18(11).

⁽²⁾ The provisions in section 18 of the Agriculture Act 1986 concerning Nature Conservancy Councils were amended by Part VII of, and Schedule 9 to, the Environmental Protection Act 1990 (c. 43).

“agreement” means an agreement under section 18(3) of the Agriculture Act 1986 as respects agricultural land in the area designated by article 3;

“enclosed unimproved permanent grassland” means enclosed permanent grassland which has not undergone regular land cultivation, or which has not been regularly treated with fertilisers, lime, slag or pesticides;

“farmer” means a person who has an interest in agricultural land in the area designated by article 3 and who also has entered into an agreement with the Minister;

“grassland” means land of which the vegetation consists primarily of grass species;

“grazing unit” means an area of land on which stock management and numbers can be controlled by existing boundaries or by shepherding;

“heather moorland or coastal heath” means moorland or coastal heath comprised in a grazing unit where the area of heather is greater than 10 hectares or represents more than 25 per cent of the area of the unit;

“heather” means common heather (*Calluna vulgaris*), and includes common heather growing in association with other ericaceous dwarf shrub species including western gorse (*Ulex gallii*);

“improved permanent grassland” means permanent grassland used for pasture or for the production of hay or silage which is regularly treated with fertilisers;

“livestock unit” means—

- (a) 1 bovine animal more than 2 years old, or
- (b) 1.66 bovine animals from six months old to two years old inclusive, or
- (c) 6.66 sheep, or
- (d) 1 soliped (other than a pure bred Exmoor pony) more than six months old;

“managed woodland” means an area of at least one hectare of woodland for which, within two years of the start of the agreement, the farmer obtains approval for a grant either in connection with the management of the land for forestry purposes under section 1 of the Forestry Act 1979⁽³⁾ or in relation to the conservation and enhancement of a National Park under section 39 or 44 of the Wildlife and Countryside Act 1981⁽⁴⁾;

“moorland” means land covered by semi-natural upland vegetation which is generally unenclosed except along ownership boundaries;

“permanent grassland” means grassland which has not been ploughed or reseeded for at least ten years;

“woodland” means land used for woodland where that use is ancillary to the farming of land for other agricultural purposes.

(2) Any reference in this Order to a numbered article or Schedule shall be construed as a reference to the article or Schedule bearing that number in this Order.

Designation of environmentally sensitive area

3. There is hereby designated as an environmentally sensitive area the area of land on Exmoor in the Counties of Devon and Somerset which is shown coloured yellow on the maps contained in the volume of maps marked “volume of maps of Exmoor environmentally sensitive area” dated 4th January 1993, signed and sealed by the Minister and deposited at the offices of the Ministry of Agriculture, Fisheries and Food, 17 Smith Square, London SW1P 3HX.

(3) 1979 c. 21.

(4) 1981 c. 69.

Requirements and provisions of agreement

4. An agreement shall include the requirements specified in Schedule 1 as to agricultural practices, methods and operations and the installation and use of equipment.

Breach of requirements or provisions

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 Minister may give the farmer notice in writing terminating the agreement forthwith and may recover from the farmer as a debt an amount equivalent to the payments made by the Minister under the agreement or such part thereof as the Minister may specify;
 - (b) any question arising under the 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 agreement to be appointed by the President of the Royal Institution of Chartered Surveyors and in accordance with the provisions of the Arbitration Act 1950(5) 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, the Minister shall make payments under an agreement for land to which the agreement relates (except any woodland) at the following rates—

- (a) £10 per annum for each hectare of land other than improved permanent grassland, enclosed unimproved permanent grassland, moorland or heather moorland or coastal heath;
- (b) £25 per annum for each hectare of improved permanent grassland;
- (c) £32 per annum for each hectare of enclosed unimproved permanent grassland;
- (d) £25 per annum for each hectare of moorland; and
- (e) £35 per annum for each hectare of heather moorland or coastal heath.

(2) Where an agreement includes the additional provisions specified in any of the options in Schedule 2 or in Schedule 3 in relation to any land, the Minister shall make payments at the rate per annum for each hectare of that land shown in the following table—

	£ per hectare of land per annum
Schedule 2	50
Schedule 3	25

(3) Where an agreement includes the additional provisions specified in Schedule 4, the Minister shall make payments at the rate per annum of £2 for each 10 metres of hedgerow per hectare, subject to a minimum of 20 metres and a maximum of 60 metres of hedgerow per hectare, and a maximum number of hectares corresponding to the area of land subject to the provisions of Schedule 1, less any moorland, heather moorland or coastal heath.

(4) Where an agreement includes one or more of the conservation plan operations specified in Schedule 5, the Minister shall also make payments in respect of the aggregate of the operations included in the agreement at a rate not exceeding £100 per hectare, subject to a maximum of £4,000 per agreement.

(5) 1950 c. 27.

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In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on

L.S.

15th January 1993.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

We consent,

14th January 1993

Nicholas Baker
Irvine Patnick
Two of the Lords Commissioners of Her
Majesty's Treasury

SCHEDULE 1

Article 4

REQUIREMENTS TO BE INCLUDED IN AGREEMENT

1. As regards all land which is the subject of an agreement—

(1) the farmer shall not devote a larger area of land to the growing of arable crops than that in use for such crops on 31st August 1992;

(2) the farmer shall not remove hedges, walls or banks, or any part thereof;

(3) the farmer shall maintain stockproof hedges, banks and walls in a stockproof condition using traditional materials;

(4) the farmer shall not erect any permanent fences, other than for hedgerow protection, without the Minister's prior written approval;

(5) the farmer shall maintain the banks and margins of streams, watercourses, ditches, ponds and other wetland features by mechanical means;

(6) the farmer shall not install any new land drainage system or modify any existing land drainage system so as to bring about improved drainage;

(7) within two years of the start of the agreement, the farmer shall obtain from a person approved by the Minister written advice on the management of existing woodland and on proposals to plant any new woodland. The farmer shall retain and manage individual trees and groups of trees;

(8) the farmer shall not plant any new woodland, trees or hedges, construct ponds or remove scrub, without the Minister's prior written approval;

(9) the farmer shall not increase existing stocking levels or supplementary feeding levels in woodland areas

(10) the farmer shall undertake control of bracken in accordance with a programme agreed in writing in advance with the Minister. Control shall be by means of asulam where mechanical means cannot be used;

(11) the farmer shall dispose of sheep dip safely and shall not spread it where it may affect areas of nature conservation value;

(12) the farmer shall not plant any game cover crops without the Minister's prior written approval;

(13) the farmer shall not damage, destroy or remove any features of archaeological or historic interest;

(14) the farmer shall maintain any weatherproof traditional farm buildings for which he is responsible in a weatherproof condition using traditional materials;

(15) the farmer shall ensure that stock removed from the land do not graze areas of common which are not subject to an agreement;

(16) the farmer shall obtain written advice on siting and materials from the Minister before constructing buildings or roads or before undertaking any other engineering or construction works which do not require prior notification determination by the local planning authority under the Town and Country Planning General Development Order 1988(6), or planning permission.

2. As regards any improved permanent grassland which is the subject of an agreement, the farmer shall not increase existing application rates of inorganic or organic fertiliser.

3. As regards any enclosed unimproved permanent grassland which is the subject of an agreement—

(1) the farmer shall identify such land and shall maintain it as such for the length of the agreement;

(6) [S.I. 1988/1813](#). The relevant amending instrument is [S.I. 1991/2805](#).

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(2) the farmer shall maintain the land and shall not excavate, plough, level, reseed, chain harrow, roll or otherwise cultivate. He shall not engage in any other form of mechanical operation between 31st March and 1st July in any year;

(3) the farmer shall not apply inorganic or organic fertiliser;

(4) the farmer shall not apply lime, slag or any other substance designed to reduce the acidity of the soil;

(5) the farmer shall graze with livestock but not so as to cause poaching, overgrazing or undergrazing;

(6) the farmer shall not use fungicides or insecticides;

(7) the farmer shall not apply herbicides except to control bracken, nettles, spear thistle, creeping or field thistle, curled dock, broadleaved dock or ragwort or to carry out stump treatment of cleared scrub. Except in the case of bracken, herbicides used for these purposes shall be applied by weed wiper or by spot treatment;

(8) the farmer shall not provide supplementary feed without the Minister's prior written approval.

4. As regards any moorland which is the subject of an agreement—

(1) the farmer shall maintain the land and shall not excavate, plough, level, reseed, chain harrow, roll or otherwise cultivate;

(2) the farmer shall not apply inorganic or organic fertiliser;

(3) the farmer shall not apply lime, slag or any other substance designed to reduce the acidity of the soil;

(4) the farmer shall graze with livestock but not so as to cause poaching, undergrazing or overgrazing;

(5) the farmer shall not increase existing stocking levels without the Minister's prior written approval;

(6) the farmer shall not use fungicides or insecticides;

(7) the farmer shall not apply herbicides except to control bracken, nettles, spear thistle, creeping or field thistle, curled dock, broadleaved dock or ragwort or to carry out stump treatment of cleared scrub. Except in the case of bracken, herbicides used for these purposes shall be applied by weed wiper or by spot treatment;

(8) the farmer shall not provide supplementary feed except with the Minister's prior written approval and shall restrict the provision of such feed to areas agreed in advance with the Minister. He shall use as supplementary feed only hay, mineral blocks or feed blocks;

(9) within one year of the start of the agreement, the farmer shall agree with the Minister a programme for any necessary management of moorland vegetation;

(10) the farmer shall agree any plan for temporary fencing in writing in advance with the Minister;

(11) the farmer shall ensure by adequate stock management that livestock do not concentrate on or adjacent to vulnerable areas of heather, including heather margins and recently burnt heather, and that light grazing levels are maintained.

5. As regards any heather moorland or coastal heath which is the subject of an agreement—

(1) the farmer shall not increase existing stocking levels and in any event shall not exceed a stocking level of 0.225 livestock units per hectare in any year;

(2) the farmer shall not graze cattle from 1st November in any year until the following 15th April and shall graze ponies only with the Minister's prior written approval;

(3) the farmer shall not exceed a stocking level of 1 ewe per hectare from 1st November in any year until the following 15th April;

- (4) the farmer shall not provide supplementary feed for livestock, except that in emergency conditions he may provide hay;
- (5) the farmer shall not provide mineral or feed blocks for livestock;
- (6) the farmer shall observe the provisions of paragraph 4 above.

SCHEDULE 2

Article 6(2)

ADDITIONAL PROVISIONS—I

As regards any heather moorland or coastal heath which is the subject of an agreement—

(1) the farmer shall not exceed a stocking level of 0.1 livestock units per hectare from 16th April until 31st October in any year;

(2) the farmer shall remove all livestock other than pure-bred Exmoor ponies from 1st November in any year until the following 15th April.

SCHEDULE 3

Article 6(2)

ADDITIONAL PROVISIONS—II

As regards any managed woodland which is the subject of an agreement, the farmer shall provide alternative grazing and shelter for livestock displaced from the land.

SCHEDULE 4

Article 6(3)

ADDITIONAL PROVISIONS—III

As regards any stockproof hedgerows which are the subject of an agreement, the farmer shall carry out a programme agreed in writing in advance with the Minister for the management of stockproof hedgerows by traditional means.

SCHEDULE 5

Article 6(4)

CONSERVATION PLAN OPERATIONS

1. The planting or laying of hedges.
2. The rebuilding of walls using traditional materials.
3. The renovation of traditional farm buildings using traditional materials.
4. The reversion of land to moorland, or the environmental improvement of moorland.
5. The control of bracken, scrub or rhododendron.
6. Works to protect historic and archaeological features.

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EXPLANATORY NOTE

(This note is not part of the Order)

Section 18 of the Agricultural Act 1986 (“the 1986 Act”) gives the Minister of Agriculture, Fisheries and Food (“the Minister”) power to designate an area in England as an environmentally sensitive area where it appears to him particularly desirable to conserve, protect or enhance environmental features in that area by the maintenance or adoption of particular agricultural methods.

This Order, which complies with Council Regulation (EEC) 2328/91 (OJNo. L218, 6.8.91, p 1) on improving the efficiency of agricultural structures, designates an area on Exmoor as an environmentally sensitive area (article 3). The designated area is defined by reference to maps which are available for inspection during normal office hours at the offices of the Ministry of Agriculture, Fisheries and Food at Nobel House, 17 Smith Square, London SW1P3 HX.

Section 18(3) of the 1986 Act enables the Minister to enter into a management agreement with any person having an interest in agricultural land in a designated area if the Minister considers that conservation of environmental features in that area may thereby be facilitated. The Order specifies requirements as to agricultural practices, methods and operations and the installation or use of equipment which must be included in such an agreement (article 4 and Schedule 1).

The Order also contains provisions for recovery of sums paid under an agreement by the Minister 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). The rates of payment to be made by the Minister under an agreement are set out (article 6) including the rates applicable to an agreement which contains additional provisions designed to attract higher rates of payment. These additional provisions are set out in Schedules 2, 3, 4 and 5.