
STATUTORY INSTRUMENTS

1993 No. 85

AGRICULTURE

**The Environmentally Sensitive Areas
(Lake District) 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 (Lake District) 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;

“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;

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

“grassland” means land on 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 fell” means fell comprised in a grazing unit where the area of heather vegetation is greater than 25 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;

“inbye land” means enclosed grassland used for pasture or for the production of hay or silage which has not been ploughed or reseeded for at least ten years and which is subject to regular treatment with fertilisers;

“intake land” means enclosed land used exclusively for grazing, most of which has not been regularly ploughed, levelled, drained or reseeded or treated with fertilisers, lime, slag or pesticides;

“livestock unit” means—

- (a) 1 bovine animal more than two 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 more than 6 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);

“wetland” means land which is subject to regular flooding or which is waterlogged for the greater part of the year.

(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 in the Lake District in the County of Cumbria which is shown coloured yellow on the maps contained in the volume of maps marked “volume of maps of the Lake District 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 inbye land, intake land, fell other than heather fell or heather fell;
- (b) £38 per annum for each hectare of inbye land;
- (c) £22 per annum for each hectare of intake land;
- (d) £25 per annum for each hectare of fell other than heather fell; and
- (e) £40 per annum for each hectare of heather fell.

(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	
Option 1	210
Option 2	100
Option 3	80
Option 4	62
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 £3 for each 0.25 metres of renovated drystone or vertical slate wall per hectare, subject to a maximum of 1.5 metres of wall per hectare, and a maximum number of hectares corresponding to the area of land subject to the provisions of Schedule 1, less any fell or heather fell.

(5) 1950 c. 27.

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(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 £4000 per agreement.

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 graze with animals so as to cause poaching, undergrazing or overgrazing;
- (2) 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;
- (3) the farmer shall dispose of sheep dip safely and shall not spread it where it may affect areas of nature conservation value;
- (4) the farmer shall not cut or spray areas of rushes between 28th February and 1st August in any year;
- (5) the farmer shall not remove boulders, rock outcrops or limestone pavement;
- (6) the farmer shall not infill natural depressions or remove hedgerow banks;
- (7) the farmer shall not install any new land drainage system or modify any existing land drainage system so as to bring about improved drainage;
- (8) the farmer shall maintain stockproof walls and hedges in a stockproof condition using traditional materials;
- (9) the farmer shall maintain any weatherproof traditional farm buildings for which he is responsible in a weatherproof condition using traditional materials;
- (10) the farmer shall not damage, destroy or remove any feature of archaeological or historic interest;
- (11) 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 or scrub or on any proposals to plant new woodland;
- (12) the farmer shall not increase his existing stocking level in woodland;
- (13) the farmer shall retain and manage any groups of trees and individual trees for which he is responsible and shall manage any pollarded trees in accordance with local custom;
- (14) the farmer shall not remove scrub without the Minister's prior written approval;
- (15) the farmer shall restrict supplementary feeding of livestock to areas agreed in advance with the Minister;
- (16) the farmer shall ensure that stock removed from the land do not graze areas of common which are not subject to an agreement;
- (17) 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 Farm and Country Planning General Development Order 1988(6), or planning permission.

2. As regards any inbye land which is the subject of an agreement—

- (1) the farmer shall maintain the land and shall not plough, level or reseed without the Minister's prior written approval;
- (2) the farmer shall not harrow, roll or otherwise cultivate pasture between 14th March and 1st August in any year. He shall cultivate meadowland only with a chain harrow or roller and shall do so as soon as possible after stock have been removed in the spring, or otherwise in the autumn;

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

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(3) the farmer shall not increase existing application rates of organic or inorganic fertiliser and in any event shall not apply more than 125 kilogrammes of nitrogen per hectare per year;

(4) the farmer shall not apply farmyard manure or slurry except manure or slurry which has been produced on his own farm and in any event shall apply slurry only to fields on which it has previously been applied;

(5) the farmer shall not apply pig or poultry manure without the Minister's prior written approval;

(6) the farmer shall not apply lime, slag or any other substance designed to reduce the acidity of the soil without the Minister's prior written approval;

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

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

3. As regards any intake land which is the subject of an agreement—

(1) the farmer shall observe the provisions of paragraph 2 above;

(2) the farmer shall not increase his existing stocking level.

4. As regards any fell other than heather fell which is the subject of an agreement—

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

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

(3) the farmer shall not apply lime, slag or any other substance designed to reduce the acidity of the soil without the Minister's prior written approval;

(4) the farmer shall ensure adequate stock control for the prevention of overgrazing and trespass to grazing units by sheep;

(5) the farmer shall not fence across open fell;

(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. 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 increase his existing stocking rate and in any event shall not exceed a level of 0.3 livestock units per hectare in any year.

5. As regards any heather fell which is the subject of an agreement—

(1) the farmer shall not increase his existing stocking rate and in any event shall not exceed 0.225 livestock units per hectare in any year;

(2) the farmer shall remove all cattle, replacement hogs and 25% of his overwintering ewes from 1st October in any year until the following 28th February;

(3) the farmer shall not allow draft ewes to graze;

(4) within two years of the start of the agreement the farmer shall where necessary agree with the Minister a programme for any necessary management of fell vegetation;

(5) the farmer shall ensure by adequate stock management that cattle and sheep graze only lightly and do not concentrate on or adjacent to areas vulnerable to grazing pressure, including areas of heather, heather margins and recently burnt heather;

(6) the farmer shall observe the provisions of paragraph 4 sub-paragraphs (1) to (7) inclusive above.

SCHEDULE 2

Article 6(2)

ADDITIONAL PROVISIONS — I

Option 1 — Meadowland

1. As regards any meadowland which is the subject of an agreement—

(1) the farmer shall observe the provisions of Schedule 1 paragraph 2 except for sub-paragraphs (3) and (4);

(2) the farmer shall identify land which is meadow and shall maintain it as such for the length of the agreement;

(3) the farmer shall exclude stock at least seven weeks before cutting and in any event by 1st June in any year;

(4) the farmer shall not take the first cut of grass before 1st July in any year, and at least once in every five years he shall not make the first cut until after 22nd July, in accordance with a cutting programme agreed with the Minister;

(5) the farmer shall remove any cut grass and graze the aftermath;

(6) the farmer shall wilt and turn grass cut for silage before removing it;

(7) the farmer shall not apply inorganic or organic fertiliser except farmyard manure which has been produced on his own farm;

(8) the farmer shall not increase his existing application rates of farmyard manure and shall not in any event apply more than 12.5 tonnes per hectare in any year. He shall make only one application a year.

Option 2 — Pasture

2. As regards any pasture which is the subject of an agreement—

(1) the farmer shall observe the requirements of Schedule 1 paragraph 2 except for sub-paragraphs (3) and (4);

(2) the farmer shall identify land which is pasture and shall maintain it as such for the length of the agreement;

(3) the farmer shall not apply inorganic or organic fertiliser except farmyard manure which has been produced on his own farm;

(4) the farmer shall not increase his existing application rates of farmyard manure and shall not in any event apply more than 12.5 tonnes per hectare in any year. He shall make only one application a year;

(5) the farmer shall not exceed an average stocking level of 0.3 livestock units per hectare in any year and shall not damage the sward by allowing poaching, overgrazing or undergrazing;

(6) the farmer shall agree in writing in advance with the Minister a grazing regime in respect of areas of pasture which adjoin lakes, ponds or watercourses.

Option 3 — Wetland

3. As regards any wetland which is the subject of an agreement—

(1) the farmer shall observe the requirements of Schedule 1 paragraph 2 except for sub-paragraphs (3), (4) and (5);

(2) the farmer shall identify land which is wetland and shall maintain it as such for the length of the agreement;

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- (3) the farmer shall not apply organic or inorganic fertiliser;
- (4) the farmer shall not increase existing stocking levels and shall agree a grazing regime in writing in advance with the Minister.

Option 4 — Heather fell

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

- (1) the farmer shall, in relation to Schedule 1 paragraph 5, observe the provisions of subparagraphs (2) to (6) inclusive only;
- (2) the farmer shall not increase existing stocking levels and shall not in any event exceed a stocking level of 0.1 livestock units per hectare from 1st March until 30th September in any year.

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 drystone or vertical slate walls which are the subject of an agreement, the farmer shall carry out a renovation programme agreed in advance in writing with the Minister.

SCHEDULE 5

Article 6(4)

CONSERVATION PLAN OPERATIONS

1. The planting or laying of hedges.
2. The regeneration of wildlife habitats, including suppressed heather, juniper scrub and water margins.
3. The control of bracken.
4. The renovation of traditional farm buildings using traditional materials.
5. The creation of flower-rich meadowland.
6. Works to protect historic and archaeological features.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 18 of the Agriculture 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 in the Lake District 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 SW1P 3HX.

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 of 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.