
STATUTORY INSTRUMENTS

1994 No. 709

AGRICULTURE

**The Environmentally Sensitive Areas
(Shropshire Hills) Designation Order 1994**

<i>Made</i>	- - - -	<i>3rd March 1994</i>
<i>Laid before Parliament</i>		<i>16th March 1994</i>
<i>Coming into force</i>	- -	<i>6th April 1994</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 her by section 18(1) and (4) of the said Act, and of all other powers enabling her 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 (Shropshire Hills) Designation Order 1994 and shall come into force on 6th April 1994.

Interpretation

2.—(1) In this Order—

(1) 1986 c. 49. The expression “the Minister” is defined in section 18(11). Section 18(4) was amended by S.I. 1994/249.
(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).

“access route” means a strip of land 10 metres wide which is the subject of an agreement including the requirements of Schedule 5 as to public access;

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

“conservation plan” means a plan for the carrying out of one or more of the operations specified in Schedule 6 which the farmer undertakes, as part of an agreement, to implement within a period of two years;

“extensive permanent grassland” means permanent grassland which is receiving no or only minimal inputs of fertiliser or pesticides, including enclosed areas of rough grazing;

“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 Minister;

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

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

“heather” means common heather (*Calluna vulgaris*) and includes common heather growing in association with other ericaceous dwarf shrub species;

“heather moorland” means moorland comprised in a grazing unit where the area of heather is greater than 5 hectares or represents more than 25 per cent of the area of the unit;

“livestock unit” means—

- (a) 1 bovine animal more than two years old;
- (b) 1.66 bovine animals from six months old to two years old inclusive;
- (c) 6.66 sheep; or
- (d) 1 horse 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 or the woodland owner obtains approval for a grant in connection with the management of the land for forestry purposes under section 1 of the Forestry Act 1979(3);

“meadowland” means land used for the production of hay or silage;

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

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

“recognised dairy breed” means one of the following breeds, namely, Ayrshire, British Friesian, British Holstein, Dairy Shorthorn, Guernsey, Jersey and Kerry;

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

“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 areas

3. There is hereby designated as an environmentally sensitive area the area of land in the Shropshire Hills in the County of Shropshire which is shown coloured yellow on the maps contained in the volume of maps marked “volume of maps of the Shropshire Hills environmentally sensitive area” dated 3rd March 1994, signed and sealed by the Minister and deposited at the offices of the Ministry of Agriculture, Fisheries and Food, 17 Smith Square, London SW1P 3JR.

Requirements included in an 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.

5. An agreement may also include the requirements as to public access specified in Schedule 2 to this Order.

Breach of requirements

6. An agreement shall include provisions that—

- (a) in the event of a breach by the farmer of the requirements referred to in article 4 which are included in the agreement, 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(4) or any statutory modification or re-enactment thereof for the time being in force.

Rates of payment under agreement

7.—(1) The Minister shall make payments under an agreement for land to which the agreement relates at the following rates—

- (a) £12 per annum for each hectare of land other than permanent grassland, extensive permanent grassland, moorland or woodland;
- (b) £30 per annum for each hectare of permanent grassland;
- (c) £40 per annum for each hectare of extensive permanent grassland;
- (d) £75 per annum for each hectare of moorland,

unless a higher rate is applicable in accordance with paragraph (3) below.

(2) Where an agreement includes the requirements as to public access specified in Schedule 2 the Minister shall make payments at the rate of £170 per annum for each hectare of access route.

(3) Where an agreement includes the additional provisions specified in Schedule 3 in relation to any moorland, the Minister shall make payments at the rate of £95 per annum for each hectare of that land.

(4) Where an agreement includes the additional provisions specified in Schedule 4 in relation to any managed woodland, the Minister shall make payments at a rate of 25 per annum for each hectare of that managed woodland.

(4) 1950 c. 27.

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(5) Where an agreement includes the additional provisions specified in Schedule 5, the Minister shall make payments at the rate per annum of £4 for each metre of stockproof or non-stockproof hedges per hectare, subject to a maximum of 2 metres of hedge per hectare per annum, and a maximum number of hectares corresponding to the area of land subject to the provisions of Schedule 1 (less any moorland) which contains or is enclosed or partially enclosed by such hedges.

(6) Where an agreement includes a conservation plan, the Minister shall also make payments in respect of the aggregate of the operations included in the plan at a rate not exceeding £100 per annum for each hectare of land to which the agreement relates, subject to a maximum of £4,000 for each such plan.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 3rd March 1994.

L.S.

Gillian Shephard
Minister of Agriculture, Fisheries and Food

We consent,

Timothy Wood
Nicholas Baker
Two of the Lords Commissioners of Her
Majesty's Treasury

3rd March 1994

SCHEDULE 1

Articles 4 and 7(1)

REQUIREMENTS TO BE INCLUDED IN AN AGREEMENT

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

(1) the farmer shall not use the land (including ley grassland which has been established for less than 10 years) for the growing of arable crops apart from land in such use on 31st December 1993;

(2) the farmer shall not increase existing application rates of organic or inorganic fertiliser. He shall not apply any organic fertiliser within 50 metres of a spring, well or borehole that supplies water for human consumption or within 10 metres of any water course;

(3) the farmer shall not remove any hedges, walls or banks or any part thereof. He shall not plough or apply pesticides or fertiliser within 1 metre of any hedge, wall or bank;

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

(5) the farmer shall maintain existing watercourses, ditches, ponds and wetland (including margins and banks) for which he is responsible 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) the farmer shall retain any broadleaved woodland and shall retain and manage any individual trees and groups of trees for which he is responsible;

(8) the farmer shall manage scrub;

(9) 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 any proposals to plant new woodland;

(10) the farmer shall not fill in any natural depressions or level any mound;

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

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

(13) the farmer shall obtain from a person approved by the Minister written advice on the agricultural management of known archaeological and historic features;

(14) the farmer shall carry out any necessary bracken control in accordance with the programme agreed in writing in advance with the Minister. Control shall be by means of asulam where mechanical means cannot be used;

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

(16) the farmer shall obtain written advice on siting, design and materials from the Minister before constructing buildings or roads or before carrying out 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(5), or planning permission;

(17) the farmer shall ensure that livestock removed from the land do not graze areas of common which are not subject to an agreement.

2. As regards all permanent grassland which is the subject of an agreement—

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

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(1) the farmer shall maintain the land and shall not excavate, cultivate, plough, level or reseed except that he may chain harrow or roll to the extent that he did so prior to the start of the agreement from 16th July in any year until the following 31st March inclusive;

(2) the farmer shall not cut or apply pesticides to areas of rushes from 1st April until 15th July inclusive in any year;

(3) where the farmer cuts meadowland for hay he shall continue to do so for the duration of the agreement;

(4) the farmer shall exclude stock from meadowland at least seven weeks before the first cut of hay or silage and in any event before 27th May in any year until the end of cutting;

(5) the farmer shall cut meadowland in each year of the agreement, remove the cuttings and graze the aftermath but shall not cut before 16th July in any year;

(6) the farmer shall wilt and turn any grass cut for silage before removal and shall graze the aftermath;

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

(8) the farmer shall not increase existing application rates of organic or inorganic fertiliser and in any event shall not apply more than 175kg of nitrogen per hectare per year. He shall not apply pig or poultry manure or sewage sludge;

(9) the farmer shall not increase existing application rates of lime, slag or any other substance designed to reduce the acidity of the soil;

(10) the farmer shall not apply any fungicides or insecticides;

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

3. As regards all extensive permanent grassland which is the subject of an agreement—

(1) the farmer shall maintain the land and shall not carry out any mechanical operations except that he may cut or top the grass other than rough grazing from 16th July until 31st August inclusive in any year;

(2) the farmer shall not cut any grass except for hay;

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

(4) the farmer shall not apply any farmyard manure on enclosed areas of rough grazing. He shall apply only farmyard manure on other land, shall not exceed existing application rates and in any event shall not exceed 12.5 tonnes per hectare in any three year period. He shall apply farmyard manure only in a single dressing;

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

(6) the farmer shall not erect any permanent or temporary fences without the Minister's prior written approval.

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

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

(2) the farmer shall not increase existing stocking levels and in any event shall not exceed 0.225 livestock units per hectare. He shall remove all cattle and 25 per cent of his ewe flock from 1st November in any year until the following 28th February inclusive;

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

(4) the farmer shall restrict supplementary feeding of livestock to areas agreed with the Minister in writing in advance;

(5) within one year of the start of the agreement, the farmer shall agree with the Minister programme for any necessary burning or cutting of moorland vegetation;

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

(7) the farmer shall not apply any fungicides or insecticides;

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

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

(10) the farmer shall not fence across open moorland.

SCHEDULE 2

Articles 5 and 7(2)

REQUIREMENTS AS TO PUBLIC ACCESS

As regards any access route which is the subject of an agreement—

(1) the farmer shall make the access route available for public access at no charge;

(2) the farmer shall maintain free passage over the access route;

(3) the farmer shall not erect new fences on or adjacent to the access route without the prior written approval of the Minister;

(4) the farmer shall keep the access route and fields crossed by it free of litter and other refuse;

(5) the farmer shall exclude bulls from the access route and fields crossed by it, except for any bull which—

(a) does not exceed 10 months, or

(b) is not of a recognised dairy breed and is at large in any field or enclosure in which cows and heifers are also at large;

(6) the farmer shall provide and maintain adequate means of entry to the access route;

(7) the farmer shall affix and maintain appropriate signboards and waymarking;

(8) the farmer shall not permit any of the following activities on the access route or on fields crossed by it: camping, caravanning, lighting of fires, organised games or sports, riding of motor vehicles (except for those used for agricultural operations on the land), without the Minister's prior written approval;

(9) the farmer shall agree with the Minister in writing in advance whether the riding of horses or cycles shall be permitted on the access route, and shall not permit such activities other than to the extent so agreed;

(10) the farmer shall not close the access route to the public other than for a specified number of days, to be agreed with the Minister in writing and in advance. Where such a prior agreement is reached, the farmer may close the access route for the number of days so specified, provided that signs giving notice of the intended closure and the reasons for it are posted at each entry point to the access route at least two weeks in advance of the date of closure;

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(11) the farmer shall agree with the Minister in writing in advance public liability insurance cover and shall maintain it for the duration of the agreement.

SCHEDULE 3

Article 7(3)

ADDITIONAL PROVISIONS—I(HEATHER MOORLAND)

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

(1) the farmer shall not increase existing stocking levels and in any event shall not exceed a level of 0.1 livestock units per hectare. He shall remove all livestock from 1st November in any year until the following 28th February inclusive;

(2) the farmer shall not provide livestock with supplementary feed.

SCHEDULE 4

Article 7(4)

ADDITIONAL PROVISIONS—II (MANAGED WOODLAND)

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

SCHEDULE 5

Article 7(5)

ADDITIONAL PROVISIONS—III (TRADITIONAL HEDGE MANAGEMENT)

As regards any stockproof or non-stockproof hedges 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 such hedges by traditional means, including laying.

SCHEDULE 6

Article 7(6)

CONSERVATION PLAN OPERATIONS

1. The planting of hedges.
2. The restoration of traditional farm buildings.
3. The creation of species-rich meadows.
4. The control of bracken or scrub.
5. The restoration of ponds and wetland.
6. Works to protect historic and archaeological features.
7. The regeneration of suppressed heather.
8. The provision and restoration of gates, stiles and footbridges where an agreement includes the requirements of Schedule 2 as to public access.

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 areas in England as environmentally sensitive areas where it appears to her particularly desirable to conserve, protect or enhance environmental features in those areas by the maintenance or adoption of particular agricultural methods.

This Order, which complies with Council Regulation (EEC) No. 2078/92 (OJ No. L215, 30.7.92, p.85) on agricultural methods compatible with the requirements of the protection of the environment and the maintenance of the countryside, designates an area in the Shropshire Hills 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 3JR.

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 by which that person agrees in consideration of payments to be made by the Minister to manage the land in accordance with the agreement. 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), as well as the requirements as to public access which may be included in an agreement (article 5 and Schedule 2). It also details additional provisions which may be included in an agreement (Schedules 3, 4 and 5) and the conservation plan operations which may be carried out (Schedule 6).

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 such a breach has occurred (article 6). The rates of payment to be made by the Minister under an agreement are set out, including the rate applicable to an agreement which contains additional provisions designed to attract higher rates of payment (article 7).