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STATUTORY INSTRUMENTS

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**1995 No. 243**

**AGRICULTURE**

**The Environmentally Sensitive Areas (Cambrian Mountains) Designation (Amendment) Order 1995**

<i>Made</i>	- - - -	<i>30th January 1995</i>
<i>Laid before Parliament</i>		<i>7th February 1995</i>
<i>Coming into force</i>	- -	<i>1st March 1995</i>

Whereas, pursuant to section 18(1) of the Agriculture Act 1986(1) the Secretary of State has by order designated an area in the Cambrian Mountains as an environmentally sensitive area;

Now, therefore, the Secretary of State, 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 Countryside Council for Wales(2) hereby makes the following Order:—

**Title and commencement**

1. This Order may be cited as the Environmentally Sensitive Areas (Cambrian Mountains) Designation (Amendment) Order 1995 and shall come into force on 1st March 1995.

**Interpretation**

2. In this Order “the principal Order” means the Environmentally Sensitive Areas (Cambrian Mountains) Designation Order 1986(3).

**Amendments of the principal Order**

3.—(1) The principal Order shall be further amended in accordance with the provisions of paragraphs (2) to (7) of this article.

(2) For paragraph (1) of article 2 (interpretation) there shall be substituted the following paragraph—

“(1) In this Order:—

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(1) 1986 c. 49; section 18(11) defines “the Minister” and 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 paragraph 13 of Schedule 9 to, the Environmental Protection Act 1990 (c. 43).  
(3) S.I. 1986/2257, amended by S.I. 1988/173, 1992/1359 and 2342.

“access route” means a strip of land 10 metres wide which is the subject of an agreement including the requirements specified in Schedule 2 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;

“bank” means a bank made of stone or earth falling within or forming the boundary of a field;

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

“buffer zone” means a strip of land, other than land which is enclosed unimproved grassland, enclosed partially improved grassland, hay meadow, semi-natural rough grazings or wetland, which borders a rock outcrop and which is at least 2 metres wide;

“enclosed partially improved grassland” means enclosed grassland which has not been regularly ploughed, levelled or reseeded but which has been modified by the application of herbicides, inorganic or organic fertiliser or by intensive grazing or drainage;

“enclosed unimproved grassland” means enclosed grassland which has not been regularly ploughed, levelled, drained or reseeded, or treated with inorganic or organic fertiliser, lime, herbicides 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 Secretary of State;

“hay meadow” means a meadow cut in the traditional manner the vegetation of which includes a mixture of native grasses, sedges and wild flowers;

“heather” means vegetation consisting of *Calluna vulgaris*, *Erica tetralix*, *Erica cinerea* or *Vaccinium myrtillus*;

“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;

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

“rock outcrop” means an area of land where a stratum of underlying rock is exposed above the surface of the ground and which covers an area above ground of not less than nine square metres;

“scrub” means vegetation consisting primarily of locally native shrubs usually less than five metres in height;

“semi-natural rough grazings” means land where the vegetation consists predominantly of bent (*Agrostis*), fescue (*Festuca*), bracken (*Pteridium aquilinum*), purple moor grass (*Molinia caerulea*), mat grass (*Nardus stricta*), heather (*Calluna vulgaris*, *Erica tetralix*, *Erica cinerea* or *Vaccinium myrtillus*), cotton grass (*Eriophorum*) or deer grass (*Trichophorum cespitosum*);

“traditional farm buildings” means buildings which are in current agricultural use, but excluding living accommodation, and which are built of materials traditional to the locality;

“wetland” means land with a water table at or just below the surface of the soil throughout the majority of the year and includes wet pasture, reed beds, fen bog, willow carr and, except insofar as such land is bordered by broadleaved woodland,

enclosed unimproved grassland, enclosed partially improved grassland, hay meadow or semi-natural rough grazings, also includes a strip of land at least 10 metres wide adjoining such land.”.

(3) In article 2(2) (interpretation) the words “or Schedule” shall be inserted after the word “article” each time it occurs.

(4) For article 4 (requirements to be included in agreement) there shall be substituted the following article—

**“Requirements to be included in agreement**

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

(5) After article 4 (requirements to be included in agreement) there shall be inserted the following article—

**“4A.** An agreement may include the requirements as to public access specified in Schedule 2.”.

(6) For article 6 (rates of payment under agreement) there shall be substituted the following article—

**“Rates of payment under agreement**

**6.—(1)** Subject to paragraph (2) below, the Secretary of State shall make payments under an agreement at the rate of £20 per annum for each hectare of land to which the agreement relates.

(2) Where the area of land to which an agreement relates exceeds 20 hectares the Secretary of State shall make payments under the agreement for such land insofar as it exceeds 20 hectares at the following rates—

- (a) £10 per annum for each hectare of land which exceeds 20 hectares but which is less than 51 hectares;
- (b) £5 per annum for each hectare of land which exceeds 50 hectares but which is less than 101 hectares; and
- (c) £3 per annum for each hectare of land which exceeds 100 hectares.

(3) Where an agreement includes land of the types to which paragraph 2 of Schedule 1 relates the Secretary of State shall, in addition to any payments made under paragraphs (1) and (2) above, make payments under an agreement for such land at the following rates—

- (a) £25 per annum for each hectare of unenclosed semi-natural rough grazings which do not include heather;
- (b) £35 per annum for each hectare of enclosed semi-natural rough grazings which do not include heather, enclosed partially improved grassland or enclosed unimproved grassland;
- (c) £35 per annum for each hectare of semi-natural rough grazings which include heather;
- (d) £45 per annum for each hectare of wetland;
- (e) £35 per annum for each hectare of hay meadow; and
- (f) £60 per annum for each hectare of buffer zone.

(4) Where an agreement includes the requirements as to public access specified in Schedule 2 the Secretary of State shall, in addition to any payments made under paragraphs (1) to (3) above, make payments at the rate of £170 per annum for each hectare of access route.

(5) Where an agreement includes the additional provisions specified in Schedule 3 the Secretary of State shall, in addition to any payments made under paragraphs (1) to (4) above, make payments at the following rates—

- (a) £20 per annum for each hectare of wetland and which under the agreement is subject to the additional provisions specified in paragraph 1 of Schedule 3;
- (b) £90 per annum for each hectare of broadleaved woodland and which under the agreement is subject to the additional provision specified in paragraph 2 of Schedule 3;
- (c) £25 per annum for each hectare of hay meadow and which under the agreement is subject to the additional provisions specified in paragraph 3 of Schedule 3;
- (d) £20 per annum for each hectare of semi-natural rough grazings where heather forms at least 5 per cent but not more than 50 per cent of the vegetation cover and which under the agreement is subject to the additional provisions specified in paragraph 4 of Schedule 3;
- (e) £50 per annum for each hectare of land which is suitable for reversion to semi-natural rough grazings and which under the agreement is subject to the additional provisions specified in paragraph 5 of Schedule 3;
- (f) £70 per annum for each hectare of land which is suitable for reversion to hay meadow and which under the agreement is subject to the additional provisions specified in paragraph 6 of Schedule 3; and
- (g) £80 per annum for each hectare of land which is suitable for reversion to wetland and which under the agreement is subject to the additional provisions specified in paragraph 7 of Schedule 3.

(6) Where an agreement includes the additional provisions specified in Schedule 4 the Secretary of State shall, in addition to any payments made under paragraphs (1) to (5) above, make payments at the following rates—

- (a) £5.50 per annum for each metre of a field boundary which is hedgerow per hectare; and
- (b) £17 per annum for each metre of a field boundary which is a bank or a stone wall per hectare.

subject to a maximum of 3 metres of field boundary per hectare, and a maximum number of hectares corresponding to the area of land subject to the provisions of Schedule 1.

(7) Subject to paragraph (8) below, where an agreement includes one or more of the conservation plan operations specified in Schedule 5, the Secretary of State shall also make payments, in respect of the aggregate of the operations so specified which are included in the agreement, at a rate not exceeding £120 per annum for each hectare of land to which the agreement relates.

(8) The payments under paragraph (7) above shall not exceed a maximum of £4,000 per agreement.”.

(7) For the Schedules to the principal Order there shall be substituted the Schedules set out in the Schedule to this Order.

### **Saving**

4. Nothing in article 3 of this Order affects an agreement entered into on or before 28th February 1995.

Signed by authority of the Secretary of State for Wales

20th January 1995

*Gwilym Jones*  
Parliamentary Under Secretary of State, Welsh  
Office

We consent,

30th January 1995

*Andrew Mitchell*  
*Derek Conway*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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SCHEDULE

Article 3(7).

“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 maintain existing hedges, walls, fences and banks using traditional methods and materials;

(2) the farmer shall not remove any existing hedges, walls, fences (other than wire fences), banks or hedgerow trees;

(3) the farmer shall not construct new hedges, walls, fences or banks without the prior approval of the Secretary of State;

(4) the farmer shall not apply to any field boundary or to a strip of land at least 2 metres wide which is adjacent to such a boundary—

(a) lime or any other substance designed to reduce the acidity of the soil, or

(b) inorganic or organic fertiliser, fungicides or insecticides;

(5) the farmer shall not apply herbicides to any field boundary or to a strip of land at least 2 metres wide which is adjacent to such a boundary, except to control bracken (*Pteridium aquilinum*), nettles (*Urtica dioica*), spear thistle (*Cirsium vulgare*), creeping or field thistle (*Cirsium arvense*), curled dock (*Rumex crispus*), broadleaved dock (*Rumex obtusifolius*), ragwort (*Senecio jacobaea*) and Japanese Knotweed (*Reynoutria Japonica*) and then only by spot treatment or weed wiper and in the case of bracken (*Pteridium aquilinum*) by overall spray treatment;

(6) the farmer shall not increase existing stocking levels of cattle and sheep without the prior written approval of the Secretary of State;

(7) the farmer shall conserve and maintain all existing lakes, ponds and streams;

(8) the farmer shall in farming the land ensure that he does not damage or destroy any features of archeological or historic interest;

(9) the farmer shall not remove any scrub without the prior approval of the Secretary of State;

(10) the farmer shall not remove any rocks from rock outcrops;

(11) the farmer shall maintain any weatherproof traditional farm buildings for which he is responsible in a weatherproof condition using traditional materials or other materials the use of which has been approved by the Secretary of State;

(12) the farmer shall obtain from the Secretary of State written advice concerning siting, design and materials before constructing or altering buildings or roads or undertaking any other engineering or construction operations which do not require prior notification determination by the local planning authority under the Town and Country Planning General Development Order 1988(4), or planning permission;

(13) the farmer shall control pests in a lawful manner;

(14) the farmer shall retain any broadleaved trees for which he is responsible.

**2. As regards any land which is the subject of an agreement and which is enclosed partially improved grassland, enclosed unimproved grassland, hay meadow, semi-natural rough grazings, wetland or a buffer zone—**

(1) the farmer shall not plough, level, reseed, cultivate or, except in the case of enclosed partially improved grassland or hay meadow, use a chain harrow or roller;

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(4) S.I. 1988/1813. The relevant amending instrument is S.I. 1991/2805.

(2) the farmer shall not, in the case of enclosed partially improved grassland or hay meadow, use a chain harrow or roller between 15th April and 15th July in any year;

(3) the farmer shall not install any new drainage system nor substantially modify any existing drainage system;

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

(5) subject to sub-paragraph (6) below, the farmer shall not apply any inorganic or organic fertiliser;

(6) the farmer shall, in the case of enclosed partially improved grassland or hay meadow, and subject to sub-paragraph (4) of paragraph 1 of this Schedule, apply not more than 12.5 tonnes of farmyard manure per hectare per year;

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

(8) subject to sub-paragraph (9) below and to sub-paragraph (5) of paragraph 1 of this Schedule, the farmer shall not apply herbicides except to control nettles (*Urtica dioica*), spear thistle (*Cirsium vulgare*), creeping or field thistle (*Cirsium arvense*), curled dock (*Rumex crispus*), broadleaved dock (*Rumex obtusifolius*), ragwort (*Senecio jacobaea*) and Japanese Knotweed (*Reynoutria Japonica*) and then only by spot treatment or weed wiper;

(9) subject to sub paragraph (5) of paragraph 1 of this Schedule, the farmer shall control bracken (*Pteridium aquilinum*) by mechanical means or by means of asulam or other chemical approved by the Secretary of State and in accordance with a programme agreed in advance with the Secretary of State;

(10) the farmer shall burn heather, grass and scrub only in accordance with a programme agreed in advance with the Secretary of State;

(11) the farmer shall not graze the land with cattle or sheep at a stocking rate that causes overgrazing or poaching, but—

(a) as regards unenclosed semi-natural rough grazings which do not include heather, he shall not in any event graze with cattle or sheep at an average annual stocking rate exceeding 0.375 livestock units per hectare, and

(b) as regards unenclosed semi-natural rough grazings which include heather or enclosed partially improved grassland which include heather, he shall not in any event graze with cattle or sheep at an average annual stocking rate exceeding 0.22 livestock units per hectare;

(12) the farmer shall restrict supplementary feeding of livestock to areas agreed in advance with the Secretary of State.

## SCHEDULE 2

Articles 4A and 6(4)

### 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 Secretary of State;

(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

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- (a) does not exceed the age of 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 prior written approval of the Secretary of State;
- (9) the farmer shall agree with the Secretary of State 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 Secretary of State 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;
- (11) the farmer shall agree with the Secretary of State in writing in advance public liability insurance cover and shall maintain it for the duration of the agreement.

### SCHEDULE 3

Article 6(5)

#### ADDITIONAL PROVISIONS—I

1. As regards any land which is the subject of an agreement and which is wetland—
  - (1) the farmer shall, within six months of the commencement of the agreement, agree in writing with the Secretary of State—
    - (a) a programme of management of the wetland, and
    - (b) a timescale to implement that programme of management;
  - (2) the farmer shall, within fifteen months of the commencement of the agreement, commence work on the programme of management of the wetland agreed with the Secretary of State;
  - (3) the farmer shall implement the programme of management of the wetland agreed with the Secretary of State in accordance with the timescale agreed with the Secretary of State;
  - (4) the farmer shall not undertake any maintenance work on existing drainage systems.
2. As regards any land which is the subject of an agreement and which is broadleaved woodland the farmer shall exclude livestock.
3. As regards any land which is the subject of an agreement and which is hay meadow—
  - (1) the farmer shall not cut for hay or silage before 15th July in any year;
  - (2) the farmer shall take at least one cut for hay or silage after 14th July in any year and shall graze the aftermath of each cut;
  - (3) the farmer shall exclude livestock for at least seven weeks before the first cut for hay or silage in any year and shall in any event exclude livestock between 7th June and the first cut for hay or silage in any year.



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4. As regards any semi-natural rough grazings which are the subject of an agreement and where heather forms at least 5 per cent but not more than 50 per cent of the vegetation cover—

(1) the farmer shall graze with cattle or sheep at an average annual stocking rate not exceeding 0.15 livestock units per hectare;

(2) the farmer shall, between 31st August in any year and 1st April in the following year, graze with cattle or sheep at an average annual stocking rate not exceeding 0.10 livestock units per hectare.

5. As regards any land which is the subject of an agreement and which is suitable for reversion to semi-natural rough grazings, the farmer shall observe the requirements of paragraph 2 of Schedule 1, other than sub-paragraphs (2) and (6) of that paragraph, and paragraph 4 of this Schedule.

6. As regards any land which is the subject of an agreement and which is suitable for reversion to hay meadow, the farmer shall observe the requirements of paragraph 2 of Schedule 1 and paragraph 3 of this Schedule.

7. As regards any land which is the subject of an agreement and which is suitable for reversion to wetland, the farmer shall observe the requirements of paragraph 2 of Schedule 1, other than sub-paragraphs (2) and (6) of that paragraph, and paragraph 1 of this Schedule.

#### SCHEDULE 4

Article 6(6)

##### ADDITIONAL PROVISIONS—II

As regards any field boundaries which are hedgerows, banks or stone walls and which are the subject of an agreement, the farmer shall carry out a restoration programme agreed in advance in writing with the Secretary of State.

#### SCHEDULE 5

Article 6(7) and (8)

##### CONSERVATION PLAN OPERATIONS

1. The restoration of ponds.
2. The creation and restoration of wildlife refuges alongside streams.
3. The restoration of heather.
4. The regeneration of heather by burning or flailing.
5. The re-creation of florally rich meadows.
6. The renovation of traditional farm buildings.
7. The control of bracken (*Pteridium aquilinum*).
8. The control of Japanese Knotweed (*Reynoutria Japonica*).
9. The control of Himalayan balsam (*Impatiens glandulifera*).
10. The provision of protective fencing for broadleaved woodland.
11. The provision and restoration of gates, stiles and footbridges where an agreement includes the requirements of Schedule 2 as to public access.”

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order further amends the Environmentally Sensitive Areas (Cambrian Mountains) Designation Order 1986 (“the principal Order”) which designated an area of the Cambrian Mountains as an environmentally sensitive area.

This Order—

- (a) adds new definitions (article 3(2));
- (b) specifies new rates of payment under management agreements entered into in relation to agricultural land in the designated area (article 3(6));
- (c) substitutes a new Schedule 1 for the previous Schedule of requirements which must be included in an agreement (article 3(7));
- (d) inserts Schedules 3 and 4 setting out additional provisions which may be included in an agreement and which attract higher rates of payment (article 3(7));
- (e) inserts a Schedule 5 of optional provisions which may be included in an agreement as part of a conservation plan and which attract additional payments (article 3(7)).

In compliance with Council Regulation (EEC) No. 2078/92 (OJ No. L215, 30.7.92, page 85) (“the Council Regulation”) this Order also amends the principal Order by detailing the requirements in relation to public access (article 3(5) and Schedule 2) which may be included in a management agreement and the rates of payment to be made by the Secretary of State in such cases (article 3(6)). The said requirements in relation to public access form part of zonal programmes made by the United Kingdom in accordance with Article 3 of the Council Regulation. Those programmes were approved by the European Commission in accordance with Article 7 of that Regulation.

The Order also makes minor and consequential amendments.

Agreements made on or before 28th February 1995 are unaffected by the amendments (article 4).