
STATUTORY INSTRUMENTS

1997 No. 1441

AGRICULTURE

**The Environmentally Sensitive Areas
(Pennine Dales) Designation Order 1997**

<i>Made</i>	- - - -	<i>5th June 1997</i>
<i>Laid before Parliament</i>		<i>10th June 1997</i>
<i>Coming into force</i>	- -	<i>1st July 1997</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 this 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 that section, it appears to the Minister that the maintenance or adoption of the agricultural methods specified in Schedule 1 to this 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)(2) 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, the Nature Conservancy Council for England⁽³⁾ and the Historic Buildings and Monuments Commission for England as called for by section 18(1) and (2) of the said Act and section 99 of the Environment Act 1995⁽⁴⁾, hereby makes the following Order:

Title and commencement

1. This Order may be cited as the Environmentally Sensitive Areas (Pennine Dales) Designation Order 1997 and shall come into force on 1st July 1997.

(1) 1986 c. 49. The expression “the Minister” is defined in section 18(11).
(2) Section 18(4) was amended by S.I. 1994/249.
(3) 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).
(4) 1995 c. 25.

Interpretation

2.—(1) In this Order—

“access route” means a strip of land 10 metres wide which is the subject of an agreement including the requirements referred to in article 5(4);

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

“allotment land” means enclosed land below moorland, used exclusively for grazing, the majority of which has not been drained, re-seeded, cultivated on a regular basis or treated with fertiliser, lime, slag, or pesticides on a regular basis;

“conservation plan” has the meaning given to it in article 5(6);

“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 on which the vegetation consists primarily of grass species;

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

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

“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 (with no corresponding reference to a specific instrument) is 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 Pennine Dales in the Counties of Cumbria, Durham, North Yorkshire and Northumberland which is shown coloured yellow on the maps contained in the volume of maps marked “Volume of maps of the Pennine Dales Environmentally Sensitive Area” dated 4th June 1997 signed by the Parliamentary Secretary, Ministry of Agriculture, Fisheries and Food and deposited at the offices of the Ministry of Agriculture, Fisheries and Food, at Nobel House, 17 Smith Square, London SW1P 3JR.

Requirements and provisions of agreement

4.—(1) The requirements as to agricultural practices, methods and operations and the installation and use of equipment which must be included in an agreement are those specified in Schedule 1.

(2) The provisions relating to additional matters in respect of which the Minister may make payments in accordance with article 5 are specified in Schedules 2, 3, 4, 5, 6 and 7.

Rates of payment under agreement

5.—(1) The Minister may make payments under an agreement in consideration of the requirements included pursuant to article 4(1), up to the maximum rate per annum set out in Part I of Schedule 8 for each hectare of land to which the agreement relates.

(2) Where an agreement contains the additional provisions set out in one or more of—

- (a) Schedule 2;
- (b) the options contained in Schedule 3; and
- (c) Schedule 4,

the Minister may make payments in consideration of those provisions up to the maximum rate per annum for each hectare of land which under the agreement is subject to those provisions, as set out in relation to that Schedule, or, as the case may be, option, in Part II of Schedule 8.

(3) Where an agreement contains the provision relating to drystone walls contained in Schedule 5, the Minister may make payments in consideration of that provision up to the maximum rate per annum set out in Part III of Schedule 8.

(4) An agreement may include the requirements as to public access specified in Schedule 6 and, where it does so, the Minister may make payments in consideration of those requirements up to the maximum rate per annum set out in Part IV of Schedule 8 for each hectare of access route.

(5) Where an agreement includes a conservation plan, the Minister may make payments in consideration of the operations included in the plan, up to the maximum sum set out in Part V of Schedule 8.

(6) For the purposes of paragraph (5) of this article, a conservation plan means a plan which the farmer undertakes or has undertaken as part of an agreement to implement within a period of two years, for the carrying out of one or more of the operations specified in Schedule 7.

(7) In this article and Schedule 8 any reference to a payment rate in relation to any unit of measurement includes a proportionate rate for a proportionate part of that unit.

Revocation, saving and amendment

6.—(1) The Environmentally Sensitive Areas (Pennine Dales) Designation Order 1992(5) is, in so far as it was made under section 18 of the Agriculture Act 1986, hereby revoked except that—

- (a) the saving set out in article 7 of that Order in respect of the provisions of the Environmentally Sensitive Areas (Pennine Dales) Designation Order 1986(6) shall continue to apply in respect of the agreements referred to in that article, and
- (b) the other provisions of that Order so made, as amended in accordance with Schedule 9, shall continue to apply to other agreements made before the coming into force of this Order in relation to land within the area designated by that Order.

(2) The Environmentally Sensitive Areas (Pennine Dales) Designation (Amendment) Order 1992(7), the Environmentally Sensitive Areas (Pennine Dales) Designation (Amendment) Order 1993(8), the Environmentally Sensitive Areas (Pennine Dales) Designation (Amendment) (No. 2) Order 1994(9) and the Environmentally Sensitive Areas (Pennine Dales) Designation (Amendment) Order 1996(10) are hereby revoked, but not so as to affect the exceptions referred to in paragraph (1) of this article.

4th June 1997

Elliot Morley
Parliamentary Secretary, Ministry of Agriculture,
Fisheries and Food

(5) S.I. 1992/55, amended by S.I. 1992/301, S.I. 1993/460, S.I. 1994/930, S.I. 1996/923, S.I. 1996/3104.

(6) S.I. 1986/2253, revoked subject to a saving by S.I. 1992/55.

(7) S.I. 1992/301.

(8) S.I. 1993/460.

(9) S.I. 1994/930, which itself revoked the amendment made to S.I. 1992/55 by S.I. 1994/253.

(10) S.I. 1996/923.

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We consent

5th June 1997

Bob Ainsworth
Jon Owen Jones
Two of the Lords Commissioners of Her
Majesty's Treasury

SCHEDULE 1

Article 4(1)

REQUIREMENTS TO BE INCLUDED IN AGREEMENT

1. As regards all land which is the subject of the agreement, requirements to the effect that—
 - (a) the farmer shall not increase his existing application rates of fertiliser;
 - (b) the farmer shall not graze any grassland in such a manner as to cause poaching, over-grazing or under-grazing;
 - (c) the farmer shall dispose of sheep dip safely and shall not spread it where it may affect areas of nature conservation value;
 - (d) the farmer shall maintain stockproof walls in a stockproof condition using traditional materials, and shall maintain hedges in a stockproof condition;
 - (e) the farmer shall maintain any weatherproof field barns for which he is responsible in a weatherproof condition using traditional materials;
 - (f) the farmer shall not damage or destroy any feature of historic interest;
 - (g) 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 operations which do not require prior determination as to the need for any approval by the local planning authority under Part 6 or 7 of Schedule 2 (permitted development) to the Town and Country Planning (General Permitted Development) Order 1995⁽¹¹⁾ or planning permission.
2. As regards any existing or proposed woodland which is subject to an agreement, a requirement to the effect that within two years of the commencement of the agreement, the farmer shall obtain written advice on the management of existing woodland or, as the case may be, on proposals to plant any new woodland, from a person approved by the Minister for the purpose of giving that advice.

SCHEDULE 2

Articles 4(2) and 5(2)(a)

ADDITIONAL PROVISIONS TO WHICH PAYMENTS REFERRED TO IN SCHEDULE 8, PART II, ITEMS 1 AND 2 RELATE

As regards all grassland which is subject to the agreement, requirements to the effect that—

- (a) the farmer shall maintain the grassland and shall not plough, level or reseed it at any time, nor shall he harrow or roll pasture or allotment land during the period from 1st April to 15th July in any given year;
- (b) the farmer shall not increase his existing application rates of inorganic fertiliser or artificial organic fertiliser and shall not in any event apply more than 25 kilogrammes of nitrogen, 12.5 kilogrammes of phosphate or 12.5 kilogrammes of potash per hectare of grassland per year, and he shall make only one application of fertiliser a year;
- (c) the farmer shall not apply slurry or poultry manure to the grassland;
- (d) the farmer shall not apply to the grassland farmyard manure which has not been produced on his own farm without the prior written approval of the Minister, shall not increase his existing application rates in respect of farmyard manure produced on his own farm, and shall not in any event apply more than 12.5 tonnes per hectare per year, and shall make only one application a year;
- (e) the farmer shall not apply fungicides and insecticides to the grassland;

(11) S.I. 1995/418.

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- (f) the farmer shall not apply to the grassland herbicides except to control bracken, nettles, spear thistle, creeping or field thistle, curled dock, broad-leaved dock or ragwort and, if using herbicides for that purpose, shall apply them by weed wiper or by spot treatment, and, for the purposes of controlling bracken, shall use asulam where it cannot be controlled by mechanical means;
 - (g) the farmer shall not apply to pasture or allotment land lime or slag or any substance designed to reduce the acidity of the soil, and he shall not, without the prior written approval of the Minister, apply to meadowland more than 5 tonnes per hectare of lime at intervals more frequent than once every 8 years;
 - (h) the farmer shall not cut or spray areas of rushes in pastures or allotment land;
 - (i) the farmer shall not install any new drainage system, or substantially modify any existing drainage system;
 - (j) the farmer shall not apply fertilisers to allotment land;
 - (k) the farmer shall not increase his existing stocking rate on allotment land, shall agree a management plan for grazing that land with the Minister and shall implement that plan;
 - (l) the farmer shall not disturb or remove material forming mineral spoil tips; and
 - (m) the farmer shall not dispose of dirty water on the grassland other than on areas agreed in writing with the Minister.
2. As regards any meadowland which is subject to the agreement, requirements to the effect that—
- (a) the farmer shall maintain it as meadowland for the length of the agreement;
 - (b) the farmer shall not cultivate the meadowland except with a chain harrow or roller, and shall carry out any such cultivation as soon as possible in the spring once stock have been removed;
 - (c) the farmer shall exclude stock from meadowland at least seven weeks before the first cut for hay or silage and at the latest by 1st June in any given year;
 - (d) the farmer shall not take the first cut of grass from meadowland for hay or silage before 8th July in any given year, and in accordance with a programme of cutting agreed with the Minister either—
 - (i) at least one year in every five he shall make the first cut after 22nd July, or
 - (ii) he shall agree to cut at least 20% of the meadowland after 22nd July in each year of the agreement,and he shall have regard to the welfare of fledglings of ground nesting birds when planning such cuts;
 - (e) the farmer shall wilt and turn grass cut for silage from meadowland before removing it;
 - (f) the farmer shall graze the aftermath of any cutting with livestock.

SCHEDULE 3

Articles 4(2) and 5(2)(b)

ADDITIONAL PROVISIONS TO WHICH PAYMENTS REFERRED TO IN SCHEDULE 8, PART II, ITEMS 3 AND 4 RELATE

Option 1

As regards any meadowland which is subject to the agreement, requirements to the effect that—

- (a) the farmer shall exclude stock from the meadowland by 15th May in any year;

- (b) the farmer shall not apply inorganic or artificial organic fertiliser to the meadowland;
- (c) the farmer shall cut all meadows and remove the crop, but he shall not cut for hay before 15th July in any year and not for silage before 22nd July in any year.

Option 2

As regards any pasture or allotment land which is the subject of the agreement, requirements to the effect that the farmer shall agree with the Minister a programme in writing of grassland management to enhance the nature conservation value of botanically diverse grassland which shall include the following provisions—

- (a) the farmer shall not apply any fertiliser to the pasture or allotment land; and
- (b) the farmer shall not exceed a stocking density of 0.3 livestock units per hectare of pasture or allotment land, and, in a continuous 8 week period starting no earlier than 1st April in any one year and ending no later than 31st July in that year, shall not exceed a stocking density of 0.15 livestock units per hectare, and for the purposes of this paragraph, “livestock unit” means—
 - (i) 1 bovine animal more than 2 years old;
 - (ii) 1.66 bovine animals no younger than 6 months old but less than 2 years old;
 - (iii) 6.66 sheep; or
 - (iv) 1 horse more than 6 months old or pony more than 6 months old.

SCHEDULE 4

Articles 4(2) and 5(2)(c)

ADDITIONAL PROVISIONS TO WHICH PAYMENTS REFERRED TO IN SCHEDULE 8, PART II, ITEM 5 RELATE

As regards any woodland which is subject to the agreement, a requirement to the effect that the farmer shall agree a programme of woodland management in writing with the Minister to enhance the nature conservation and landscape value of native woodland, and to keep the woodland stockproof, and shall implement that programme.

SCHEDULE 5

Articles 4(2) and 5(3)

ADDITIONAL PROVISIONS RELATING TO DRYSTONE WALLS

As regards any drystone walls which are subject to the agreement, a requirement to the effect that the farmer shall agree with the Minister a programme in writing for the renovation of those drystone walls to be implemented over a period of 5 years, and shall implement that programme.

SCHEDULE 6

Articles 4(2) and 5(4)

REQUIREMENTS AS TO PUBLIC ACCESS

As regards any access route which is subject to the agreement, requirements to the effect that—

- (a) the farmer shall make the access route available for public access at no charge;
- (b) the farmer shall maintain free passage over the access route;

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- (c) the farmer shall not erect new fences on or adjacent to the access route without the prior written approval of the Minister;
- (d) the farmer shall keep the access route and fields crossed by it free of litter and other refuse;
- (e) the farmer shall exclude bulls from the access route and fields crossed by it, except for any bull which—
 - (i) does not exceed the age of 10 months, or
 - (ii) 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;
- (f) the farmer shall provide and maintain adequate means of entry to the access route;
- (g) the farmer shall affix and maintain appropriate signboards and waymarking;
- (h) the farmer shall not without the Minister’s prior written approval permit any of the following activities on the access route or on fields crossed by it—
 - (i) camping,
 - (ii) caravanning,
 - (iii) lighting of fires,
 - (iv) organised games or sports,
 - (v) riding of motor vehicles (except for those used for agricultural operations on the land subject to the agreement);
- (i) the farmer shall agree in advance with the Minister in writing whether or not 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;
- (j) 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 and, where the access route is closed as so agreed, shall ensure 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; and
- (k) the farmer shall agree in advance with the Minister in writing public liability insurance cover and shall maintain it for the duration of the agreement.

SCHEDULE 7

Articles 4(2) and 5(6)

CONSERVATION PLAN OPERATIONS

1. The building or rebuilding of drystone walls using traditional materials.
2. The planting, laying and coppicing of hedges.
3. The renovation of field barns using traditional materials.
4. The creation or re-creation of meadowland.
5. Tree planting.
6. Works to protect historic and archaeological features.
7. Works designed to restore or create landscape features or features for the benefit of wildlife in a manner compatible with the enhancement of the environment.
8. The provision and restoration of gates, stiles and footbridges where the agreement includes the requirements of Schedule 6 as to public access.

- 9. The control of bracken.
- 10. The provision and repair of stiles.

SCHEDULE 8

Article 5

MAXIMUM PAYMENT RATES

Part I

A maximum rate of £20 per annum

Part II

<i>Item</i>	<i>Schedule</i>	<i>Maximum rate in £ per hectare of land per annum</i>
	Schedule 2	
1	—in relation to meadowland	£135
2	—in relation to grassland other than meadowland	£95
	Schedule 3	
3	—Option 1	240
4	—Option 2	145
5	Schedule 4	200

Part III

A maximum rate of £14 per metre

Part IV

A maximum rate of £170 per hectare

Part V

A maximum of £100,000 per agreement

SCHEDULE 9

Article 6

AMENDMENTS TO THE ENVIRONMENTALLY SENSITIVE AREAS (PENNINE DALES) DESIGNATION ORDER 1992

1. The Environmentally Sensitive Areas (Pennine Dales) Designation Order 1992(12) is amended in accordance with the following provisions of this Schedule.

(12) S.I. 1992/55, amended by S.I. 1992/301, S.I. 1993/460, S.I. 1994/930, S.I. 1996/923, S.I. 1996/3104.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

2. In article 2 (interpretation)–
- (a) in paragraph (1) for the definition of “conservation plan” there is substituted the following definition–
- “conservation plan” means a plan which the farmer undertakes or has undertaken as part of an agreement to implement within a period of two years, for the carrying out of one or more of the operations specified in Schedule 4 (or in Schedule 7 to the Environmentally Sensitive Areas (Pennine Dales) Designation Order 1997); and
- (b) in article 2 (interpretation) in paragraph (2), for the words “shall be construed as” there are substituted the words “(with no corresponding reference to a specific instrument) is”.
3. In article 6 (rates of payment under agreement) for paragraphs (2) and (3), there are substituted the following paragraphs–
- “(2) Where an agreement contains the additional provisions specified in–
- (a) Schedule 2, or
- (b) Schedule 1, option 2 of Schedule 3, Schedule 4 or Schedule 5 to the Environmentally Sensitive Areas (Pennine Dales) Designation Order 1997,
- the Minister shall make payments at the rate per annum shown in the following table for each hectare of land or (in respect of the final item) metre of wall which under the agreement is subject to those additional provisions–

<i>Schedule</i>	<i>£ per hectare of land or metre of wall per annum</i>
Schedule 2	240
Schedule 1 to the Environmentally Sensitive Areas (Pennine Dales) Designation Order 1997.	20
Option 2 of Schedule 3 to the Environmentally Sensitive Areas (Pennine Dales) Designation Order 1997.	145
Schedule 4 to the Environmentally Sensitive Areas (Pennine Dales) Designation Order 1997.	200
Schedule 5 to the Environmentally Sensitive Areas (Pennine Dales) Designation Order 1997.	14

(3) Where an agreement includes a conservation plan, the Minister shall also make payments in respect of the operations included in the plan, up to a maximum sum of £100,000 per agreement.”.

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”) the 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 is made pursuant to Council Regulation (EEC) No. 2078/92 (OJ No. L215, 30.7.92, p. 85, as last amended by Commission Regulation (EC) No. 2772/95 (OJ No. L288, 1.12.95, p. 35)) and implements in part a zonal programme approved thereunder, designates an area in the Pennine Dales as an environmentally sensitive area (article 3). The previous designation of an environmentally sensitive area in the Pennine Dales is, in so far as it is made under section 18 of the 1986 Act, revoked, with saving provisions (article 6 and Schedule 9). The provisions of the previous designation Order so revoked are all those which do not derive from S.I. 1996/3104; those which derive from S.I. 1996/3104 are revoked, with a saving, by the Environmentally Sensitive Areas (England) Designation Orders (Revocation of Specified Provisions) Regulations 1997. The newly 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 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(1) and Schedule 1), and the requirements in relation to additional matters in respect of which the Minister may make payments which may be included (article 4(2) and Schedules 2 to 7). The rates of payment which may be made under an agreement in respect of those requirements are set out (article 5 and Schedule 8).

Management agreements covered by this Order are also subject to Commission Regulation (EC) No. 746/96 (OJ No. L102, 25.4.96, p. 19) laying down detailed rules for the application of the Council Regulation 2078/92, which Commission Regulation has been amended by Commission Regulation (EC) No. 435/97 (OJ No. L67, 7.3.97, p. 2.).

No compliance cost assessment has been prepared in relation to this Order.