
STATUTORY INSTRUMENTS

1993 No. 456

AGRICULTURE

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

<i>Made</i>	- - - -	<i>4th March 1993</i>
<i>Laid before Parliament</i>		<i>5th March 1993</i>
<i>Coming into force</i>	- -	<i>27th March 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 physiological 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 this 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 (Clun) Designation Order 1993 and shall come into force on 27th March 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;

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

“managed woodland” means an area of at least one hectare of woodland for which, within two years of the start of an agreement, the farmer 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 primarily used for the production of hay or silage;

“rough grazing” means land covered by semi-natural vegetation;

“strip” means a strip of land at least 6 metres wide located at the edge of a field used for the production of arable crops;

“unimproved grassland” means grassland which has not been regularly ploughed, levelled, drained or reseeded or treated with fertilisers, lime, slag, herbicides or pesticides;

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

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

Designation of environmentally sensitive area

3. There is hereby designated as an environmentally sensitive area the area of land in the vicinity of Clun in Shropshire which is shown coloured yellow on the maps contained in the volume of maps marked “volume of maps of Clun environmentally sensitive area”, dated 3rd March 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.

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(4) or any statutory modification or re-enactment thereof for the time being in force.

(3) 1979 c. 21.

(4) 1950 c. 27.

Rates of payment under agreement

6.—(1) Subject to paragraph (2) below, the Minister shall make payments under an agreement at the rate of £30 per annum for each hectare of land to which the agreement relates, and, in relation to the provisions of Schedule 1 paragraph 2 (hedgerow restoration), £8 per annum for each hectare of that land.

(2) Where an agreement includes the additional provisions specified in Schedule 2, 3, 4, 5, 6 or 7 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	80
Schedule 3	100
Schedule 4	170
Schedule 5	240
Schedule 6	25
Schedule 7	60

(3) Where an agreement includes one or more of the conservation plan operations specified in Schedule 8, 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 annum for each hectare of land to which the agreement relates, subject to a maximum of £4,000 per agreement.

Revocation and saving

7. The Environmentally Sensitive Areas (Shropshire Borders) Designation Order 1987⁽⁵⁾ is hereby revoked, except that the provisions of that Order shall continue to apply to agreements made in relation to it on or before 28th February 1993.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 3rd March 1993.

L.S.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

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

We consent

4th March 1993

Tim Wood
Irvine Patnick
Two of the Lords Commissioners of Her
Majesty's Treasury

SCHEDULE 1

Article 4

REQUIREMENTS TO BE INCLUDED IN AGREEMENT

All land

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

(1) the farmer shall not increase the area of land used for growing arable or fodder crops (including ley grassland which has been established for less than five years) beyond that in existence on 31st August 1992;

(2) the farmer shall not remove any, or any part of, hedges and banks;

(3) the farmer shall maintain any hedges laid since 31st December 1987 in a stockproof condition using traditional methods;

(4) the farmer shall maintain trees growing on stream and river banks;

(5) the farmer shall maintain hedgerow and field trees;

(6) the farmer shall maintain ponds and retain wet areas;

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

(8) the farmer shall maintain any weatherproof farm building for which he is responsible in a weatherproof condition using traditional methods and materials;

(9) the farmer shall dispose of sheep-dip safely and not spread it in areas of nature conservation value;

(10) the farmer shall maintain watercourses and ditches in rotation by mechanical means and shall dry and level spoil. The farmer shall not fill in any watercourses or ditches;

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

(12) the farmer shall not remove any mounds or fill in any natural depressions;

(13) the farmer shall not increase existing application rates of organic or inorganic fertiliser and shall not in any event apply more than 175 kilogrammes of nitrogen per hectare per year. He shall not apply pig or poultry manure and shall not apply farmyard manure or slurry except where it has been produced on his own farm. He shall not apply organic fertiliser within 50 metres of any spring, well or borehole which supplies water for human consumption or within 10 metres of any watercourse; watercourse;

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

(15) the farmer shall retain any broadleaved woodland, copses, groups of trees or scrub;

(16) 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 woodland or on proposals to plant new woodland, unless such advice has already been obtained under a previous agreement relating to the same land;

(17) the farmer shall obtain written advice on siting and materials from the Minister before constructing 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(6), or planning permission.

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

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Hedgerow restoration

2. As regards any hedges, other than those to which the provisions of paragraph 1(3) above apply, which are the subject of an agreement, the farmer shall carry out a programme agreed within twelve months of the start of the agreement in writing with the Minister for the restoration of a minimum of 2 metres of such hedges per hectare of land subject to the agreement per annum. In implementing the programme, he shall use replanting, laying, coppicing, gapping, back-fencing and other traditional management means.

SCHEDULE 2

Article 6(2)

ADDITIONAL PROVISIONS-I (UNIMPROVED GRASSLAND AND ROUGH GRAZING)

As regards any unimproved grassland and rough grazing which is the subject of an agreement—

- (1) the farmer shall maintain grassland and shall not plough, level, re-seed or otherwise cultivate;
- (2) the farmer shall not use a chain harrow or roller at any time of the year on rough grazing land and on other land shall not use a chain harrow or roller between 31st March and 16th July in any year;
- (3) the farmer shall cut meadowland, but not before 16th July in any year, and shall remove the crop and graze the aftermath with livestock;
- (4) the farmer shall not mow or top rough grazing land;
- (5) the farmer shall exclude stock from meadowland at least seven weeks before the first cut for hay or silage and by 27th May in any year at the latest;
- (6) the farmer shall identify hay meadow and manage it as such for the length of the agreement;
- (7) the farmer shall graze with livestock but not so as to cause poaching, overgrazing or undergrazing;
- (8) the farmer shall not apply inorganic fertiliser or slurry;
- (9) the farmer shall not increase existing application rates of farmyard manure and in any event shall not apply more than 12.5 tonnes per hectare in any three year period. He shall not make applications between 1st April and 31st May in any year;
- (10) the farmer shall not apply herbicides except to control spear thistle, creeping or field thistle, curled dock, broadleaved dock, ragwort, nettles or bracken, or for stump treatment of cleared scrub. Herbicides used for these purposes shall be applied by wick applicator or by spot treatment. In the case of bracken, control shall be by means of asulam where it cannot be controlled by mechanical means;
- (11) the farmer shall carry out any necessary bracken control in accordance with a programme agreed in writing in advance with the Minister;
- (12) The farmer shall not apply fungicides or insecticides;
- (13) The farmer shall not apply lime, slag or any other substance designed to reduce the acidity of the soil;
- (14) The farmer shall not erect any permanent or temporary fences without the Minister's prior written consent;
- (15) The farmer shall not cut or top areas of rushes.

SCHEDULE 3

Article 6(2)

ADDITIONAL PROVISIONS-II (REVERSION OF IMPROVED GRASSLAND TO UNIMPROVED GRASSLAND)

As regards any improved grassland which is the subject of an agreement, the farmer shall observe the provisions of Schedule 2, other than those applicable only to rough grazing.

SCHEDULE 4

Article 6(2)

ADDITIONAL PROVISIONS-III (REVERSION OF IMPROVED GRASSLAND TO ROUGH GRAZING)

As regards any improved grassland which is the subject of an agreement, the farmer shall observe the provisions of Schedule 2, including those relating to rough grazing, except that at no time shall he use a chain harrow or roller, or make applications of farmyard manure. He shall not mow or top the sward.

SCHEDULE 5

Article 6(2)

ADDITIONAL PROVISIONS-IV (REVERSION TO UNIMPROVED PERMANENT GRASSLAND)

1. As regards any land which is the subject of an agreement—
 - which is suitable for conversion to permanent grassland; and
 - which, on 31st August 1992, was in arable cropping or had been in ley management for less than five years—
 - (1) the farmer shall cease arable or ley grassland production and establish a grassland sward within twelve months of the start of the agreement, using grass species approved by the Minister;
 - (2) during a period of twelve months from the start of the agreement, the farmer shall not apply—
 - (a) any organic or inorganic fertiliser;
 - (b) lime, slag or any substance designed to reduce the acidity of the soil; or
 - (c) any pesticide,without obtaining the Minister's prior written approval;
 - (3) the farmer shall cut the grassland sward referred to in subparagraph (1) above during each of the first three years following its establishment, remove the cuttings as hay and graze the aftermath with cattle or sheep (or both). He shall not cut the sward before 16th July in any year;
 - (4) In addition to observing the requirements of Schedule 1 paragraph (1) above, from the start of the agreement, after the expiry of the twelve-month period referred to in subparagraph (1) above, the farmer shall observe the provisions of Schedule 2 together with the provisions either of Schedule 3 or of Schedule 4.

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SCHEDULE 6

Article 6(2)

ADDITIONAL PROVISIONS-V (MANAGED WOODLAND)

1. 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 7

Article 6(2)

ADDITIONAL PROVISIONS-VI (CONSERVATION HEADLANDS)

1. As regards any strip which is the subject of an agreement—
 - (1) the farmer shall not apply insecticides except between 31st August in any year and the following 15th March;
 - (2) the farmer shall not apply herbicides to the strip other than—
 - (a) Tri-allate, diclofop-methyl, difenzoquat, flamprop-m-isopropyl or fenoxaprop-ethyl;
 - (b) Glyphosate, provided that it is applied only in the preor post-harvest period;
 - (c) Fluroxypyr, provided it is applied by spot treatment and solely for the control of cleavers;
or
 - (d) any other herbicide applied by any method which the Minister may from time to time approve for this purpose.

SCHEDULE 8

Article 6(3)

CONSERVATION PLAN OPERATIONS

1. The renovation of traditional farm buildings using traditional methods and materials.
2. The regeneration of suppressed heather.
3. The control of bracken.
4. The planting, laying, coppicing and gapping of hedges not otherwise subject to a management programme under the agreement.
5. The restoration of ponds, wet areas, wet meadows and river banks.
6. The creation of hay meadows.
7. The management of scrub.
8. 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 complies with Council Regulation (EEC) 2328/91 (OJNo. L218, 6.8.91, p. 1) on improving the efficiency of agricultural structures and forms part of the scheme designed to implement Council Regulation (EEC) 2078/92 (OJ No. L215, 30.7.92, p. 85) on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside. It designates an area in the vicinity of Clun, on the Shropshire Borders, as an environmentally sensitive area (article 3). The previous designation of an environmentally sensitive area on the Shropshire Borders is revoked, though with savings provisions (article 7). 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 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 by arbitration of any question as to whether a breach of those requirements has occurred (article 5). The rates of payment to be made by the Minister under an agreement are established by reference to the farming income foregone in abiding an agreement; they are set out in the Order and include rates payable under an agreement which contains additional provisions (article 6). These additional provisions are set out in Schedules 2, 3, 4, 5, 6, 7 and 8.