
STATUTORY INSTRUMENTS

1993 No. 457

AGRICULTURE

**The Environmentally Sensitive Areas
(North Peak) 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 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 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 (North Peak) 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 Council 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;

“eroded heather moorland” means moorland where more than 25% of the area of land subject to an agreement is bare ground as a result of reduced heather growth;

“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;

“grazeable moorland” includes moorland areas other than areas which are cotton grass (*Eriophorum vaginatum*), bare ground, rock or scree with less than 10 per cent vegetation cover;

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

“inbye land” means enclosed land used for the production of grass or crops;

“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;

“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 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);

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

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

“suppressed heather moorland” means moorland where less than 25% of the area of land subject to an agreement comprises heather;

“unimproved grassland” means grassland which has not been regularly ploughed, levelled, drained or reseeded, or treated with fertiliser, 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 North Peak in the Counties of Greater Manchester, Derbyshire, South Yorkshire and West Yorkshire which is shown coloured yellow on the maps contained in the volume of maps marked “volume of maps of the North Peak 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.

(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.

Provisions as to breach of requirements to be included in agreement

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 civil 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 at the following rates—

- (a) £10 per annum for each hectare of land other than unimproved grassland and enclosed rough grazing, or moorland;
- (b) £30 per annum for each hectare of unimproved grassland and enclosed rough grazing;
- (c) £25 per annum for each hectare of moorland,

and, in relation to the provisions of Schedule 1 paragraph 4 (non-stockproof walls), the Minister shall make payments at the rate of £6 per annum for each hectare of inbye land which is included in the agreement.

(2) Where an agreement includes the additional provisions specified in 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	
—Exclosure Option	80
—Extensification Option	40
Schedule 3	25

(3) Where an agreement includes one or more of the conservation plan operations specified in Schedule 4, 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 £4000 per agreement.

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Revocation and saving

7. The Environmentally Sensitive Areas (North Peak) Designation Order 1987(6) 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

We consent

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

4th March 1993

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 maintain any stockproof hedges for which he is responsible in a stockproof condition using traditional methods;

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

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

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

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

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

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

(8) the farmer shall not remove any, or any part of, walls, hedges or banks;

(9) the farmer shall maintain stockproof walls in a stockproof condition using traditional methods and materials;

(10) the farmer shall not fill in hollows or depressions;

(11) the farmer shall carry out any necessary bracken control in accordance with a programme agreed in advance in writing with the Minister;

(12) the farmer shall carry out any necessary scrub control in accordance with a programme agreed in advance in writing with the Minister;

(13) the farmer shall not apply herbicides except to control nettles, spear thistle, creeping or field thistle, curled dock, broadleaved dock, ragwort or bracken or to carry out 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;

(14) subject to paragraph 2(5) and 3(7) below, the farmer shall not increase existing application rates of organic or inorganic fertiliser and in any event shall not apply more than 100 kilogrammes of nitrogen per hectare per annum. He shall not apply pig or poultry manure and shall only apply farmyard manure or slurry produced on his own farm. He shall not apply organic fertiliser within 50 metres of any spring, well or borehole that supplies water for human consumption, or within 10 metres of any watercourse;

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

(16) within two years from 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 on proposals to plant new woodland, unless such advice was obtained under a previous agreement relating to the same land;

(17) the farmer shall retain and manage field, hedgerow and streamside trees;

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

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(19) the farmer shall retain and manage ponds;

(20) the farmer shall not increase the area of cultivated land (including ley grassland which has been established for less than five years) beyond that in existence on 31st August 1992;

(21) 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 notification determination by the local planning authority under the Town and Country Planning General Development Order 1988(7), or planning permission.

Unimproved grassland and enclosed rough grazing

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

(1) the farmer shall identify such grassland and rough grazing and manage it as grassland or rough grazing, as appropriate, for the duration of the agreement;

(2) the farmer shall not excavate, plough, level, re-seed or otherwise cultivate;

(3) the farmer shall not use a chain harrow or roller on land which has not previously been rolled, or on other land between 1st April and 16th July in any year;

(4) the farmer shall not cut or spray areas of rushes;

(5) the farmer shall not apply inorganic or processed organic fertiliser or slurry. He shall not increase existing application rates of farmyard manure and in any event shall not apply more than a single dressing of farmyard manure in any three year period, at an application rate not exceeding 12.5 tonnes per hectare. He shall not make any such application between 1st April and 31st May in any year;

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

(7) the farmer shall graze pastureland with cattle or sheep, or both;

(8) the farmer shall identify hay meadow and manage it as such for the duration of the agreement;

(9) the farmer shall exclude stock from meadowland at least seven weeks before the first cut of hay or silage and by 27th May in any year at the latest;

(10) the farmer shall cut the grass on meadowland, remove the crop and graze the aftermath but shall not cut for hay before 16th July in any year.

Moorland

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

(1) the farmer shall not increase existing stocking levels without the Minister's prior approval and in any event shall not exceed a level of 0.15 livestock units per hectare in any year;

(2) the farmer shall agree in advance with the Minister sites for the supplementary feeding of cattle and sheep and shall use sites in rotation so as to avoid poaching;

(3) the farmer shall implement a written programme agreed with the Minister for the management of moorland vegetation by burning or cutting;

(4) the farmer shall ensure by adequate stock management measures, agreed in advance in writing with the Minister, that cattle and sheep graze only lightly, do not trespass onto neighbouring moorland and do not concentrate on or adjacent to areas vulnerable to grazing pressure, including areas of heather, heather margins and recently burnt heather;

(7) [S.I. 1987/1813](#). The relevant amending instrument is [S.I. 1991/2805](#).

(5) between 1st November in any year and the following 28th February, the farmer shall not allow cattle or horses to graze and shall remove 25% of his overwintering ewes and replacement hogs;

(6) the farmer shall not excavate, plough, level, reseed or otherwise cultivate except for purposes of heather regeneration;

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

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

(9) the farmer shall not erect permanent fences on open moorland, and shall erect temporary fences only with the Minister's prior written approval;

(10) the farmer shall not cut or spray areas of rushes;

(11) within twelve months of the start of the agreement, the farmer shall—

(a) identify areas of suppressed or eroded heather moorland which together are equivalent to at least 2% of the total area of all moorland which is subject to the agreement;

(b) exclude livestock from such areas by means of temporary fencing, which he shall remove and dispose of when heather regeneration has taken place, or the agreement ends, whichever is sooner;

(c) agree access points to the fenced areas with the Minister and where necessary erect stiles or gateways; and

(d) provide and erect notices at sites agreed with the Minister, in a form agreed with him, explaining that the existence of the fenced areas is designed to encourage heather regeneration.

Non-stockproof walls

4. As regards any non-stockproof walls 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 0.5 metres of such walls per hectare of inbye land included in the agreement per annum.

SCHEDULE 2

Article 6(2)

ADDITIONAL PROVISIONS-I (HEATHER MOORLAND REGENERATION)

Exclosure option

1. As regards any suppressed or eroded heather moorland which is the subject of an agreement—

(1) the farmer shall use temporary fencing to isolate areas of such moorland from livestock and shall permit livestock to graze within those areas only as part of a controlled grazing programme agreed in advance in writing with the Minister. He shall remove and dispose of the temporary fencing when heather regeneration has taken place or when the agreement ends, whichever is the sooner;

(2) the farmer shall agree access points to the fenced areas with the Minister and where necessary erect stiles or gateways;

(3) the farmer shall provide and erect notices at sites agreed with the Minister, in a form agreed with him, explaining that the existence of the fenced areas is intended to encourage heather regeneration.

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Extensification option

2. As regards any suppressed or eroded heather moorland which is the subject of an agreement—
- (1) the farmer shall not exceed a stocking level on open moorland of 0.1 livestock units per hectare of grazeable moorland;
 - (2) the farmer shall observe the requirements of paragraph 3(5) of Schedule 1 between 1st October in any year and the following 28th February.

SCHEDULE 3

Article 6(2)

ADDITIONAL PROVISIONS-II (MANAGED WOODLAND)

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)

CONSERVATION PLAN OPERATIONS

1. The planting, laying and gapping of hedges.
2. The restoration of ponds and wet areas.
3. The supplementary treatment of suppressed or eroded heather moorland.
4. The control of bracken.
5. The renovation of traditional farm buildings using traditional methods and materials.
6. Works to protect historic and archaeological features.
7. The creation or restoration of flower-rich meadows.
8. The management of scrub.
9. The restoration of drystone walls, other than walls subject to the provisions of Schedule 1 paragraph 4.

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 North Peak as an environmentally sensitive area (article 3). The previous designation of an environmentally sensitive area in the North Peak 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 and 4.