
STATUTORY INSTRUMENTS

1986 No. 2251

AGRICULTURE

**The Environmentally Sensitive Areas (West Penwith) Designation
Order 1986**

<i>Made - - - -</i>	17th December 1986
<i>Laid before Parliament</i>	18th December 1986
<i>Coming into Operation</i>	1st March 1987

Whereas, in accordance with section 18(1) of the Agriculture Act 1986 (a), it appears to 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, in accordance with the said section 18(1) of the said Act it appears to the Minister that the maintenance and adoption of the agricultural methods specified in the Schedule 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 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:—

Citation, commencement and extent

1.—(1) This Order may be cited as the Environmentally Sensitive Areas (West Penwith) Designation Order 1986 and shall come into operation on 1st March 1987.

(2) This Order extends to England only.

Interpretation

2.—(1) In this Order—

“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 has entered into an agreement with the Minister;

“the Minister” means the Minister of Agriculture, Fisheries and Food;

(a) 1986 c.49.

“rough land” means heathland, wetland, semi-natural grassland or scrub.

(2) Any reference in this Order to a numbered article shall be construed as a reference to the article 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 West Penwith in the County of Cornwall which is shown coloured yellow on the maps contained in the volume of maps marked “volume of maps of West Penwith environmentally sensitive area” dated 17th December 1986, signed and sealed by the Minister and deposited at the offices of the Ministry of Agriculture, Fisheries and Food at Great Westminster House, Horseferry Road, London SW1P 2AE.

Requirements to be included in agreement

4. An agreement shall include the requirements specified in the Schedule to this Order 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 an 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 (a) or any statutory modification or re-enactment thereof for the time being in force.

Rates of payment under agreement

6. Payments made by the Minister under an agreement shall be at the rate of £60 per annum for each hectare of land to which the agreement relates.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 17th December 1986.



Michael Jopling,
Minister of Agriculture, Fisheries
and Food.

(a) 1950 c.27.

We consent,

Tony Durant,
Michael Neubert,
Two of the Lords Commissioners of
Her Majesty's Treasury.

17th December 1986.

REQUIREMENTS TO BE INCLUDED IN AGREEMENT

1. As regards any rough land which is the subject of an agreement, including any land which was rough land on 1st September 1986—

- (1) The farmer shall not plough, level, re-seed or cultivate;
- (2) The farmer shall graze with cattle but not so as to cause poaching, undergrazing or overgrazing;
- (3) The farmer shall burn heather, grass or scrub only in accordance with a programme agreed in advance with the Minister;
- (4) The farmer shall restrict supplementary feeding of livestock to areas agreed in advance with the Minister;
- (5) The farmer shall not apply any organic or inorganic fertiliser;
- (6) The farmer shall not apply pesticides;
- (7) The farmer shall not apply herbicides except to control bracken, spear thistle, creeping or field thistle, curled dock, broad-leaved dock or ragwort. Herbicides used for these purposes shall be applied by weed wiper or spot treatment. In the case of bracken, control shall be by means of asulam or other chemical approved by the Minister;
- (8) The farmer shall not apply lime or slag or any substance designed to reduce the acidity of the soil;
- (9) The farmer shall not erect any new temporary fence;
- (10) The farmer shall not install any new drainage system nor substantially modify any existing drainage system.

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

- (1) The farmer shall not erect any new permanent fence;
- (2) The farmer shall maintain existing field patterns;
- (3) The farmer shall not remove any hedge, wall or lynchet;
- (4) The farmer shall not widen gateways or remove gateposts;
- (5) The farmer shall maintain stockproof hedges and walls in stockproof condition using traditional methods and materials;
- (6) The farmer shall maintain any weatherproof traditional farm building which he owns or the exterior of which he has a liability to repair in a weatherproof condition;
- (7) The farmer shall maintain existing ponds and streams;
- (8) The farmer shall not remove from the ground any boulder which is higher than 0.1 metres from ground level and which has an exposed superficial area in excess of 1.5 square metres;
- (9) The farmer shall ensure in farming the land that he does not damage or destroy any feature of historic interest;
- (10) The farmer shall obtain from the Minister written advice concerning siting and materials before constructing buildings or roads or carrying out other engineering operations authorised under Class VI of the Town and Country Planning General Development Orders 1977 to 1985 (a). This requirement shall not apply to any development in respect of which notice of a direction restricting permitted development has been served under article 4 of the Town and Country Planning General Development Order 1977 (b).

(a) S.I. 1977/289, 1980/1946, 1981/245, 1569, 1983/1615, 1985/1011, 1981, amended by 1986/435.

(b) S.I. 1977/289; the relevant amending instruments are S.I. 1985/1981, 1986/435.

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 designates an area in the West Penwith as an environmentally sensitive area (article 3). The 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 Great Westminster House, Horseferry Road, London SW1P 2AE, and at

- (a) South Western Regional Office, Block III, Government Buildings, Burghill Road, Westbury-on-Trym, Bristol BS10 6NJ;
- (b) Truro Divisional Office, Agar Road, Truro TR1 1JX.

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 be thereby facilitated, and the Order specifies requirements as to agricultural practices, methods and operations and the installation and use of equipment which must be included in such an agreement (article 4 and the Schedule).

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). Payments to be made by the Minister under an agreement are to be at the rate of £60 per year per hectare of land to which the agreement relates (article 6).