

1987 No. 2031

AGRICULTURE

The Environmentally Sensitive Areas
(Shropshire Borders) Designation Order 1987

<i>Made</i> - - - -	<i>26th November 1987</i>
<i>Laid before Parliament</i>	<i>30th November 1987</i>
<i>Coming into force</i>	<i>1st January 1988</i>

Whereas, as mentioned in 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, as mentioned in 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 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), (4) and (11) 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 and commencement

1. This Order may be cited as the Environmentally Sensitive Areas (Shropshire Borders) Designation Order 1987 and shall come into force on 1st January 1988.

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;

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

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

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

“unimproved grassland” means grassland which has not been regularly ploughed, levelled, drained, re-seeded 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 Shropshire Borders which is shown coloured yellow on the maps contained in the volume of maps marked “volume of maps of Shropshire Borders environmentally sensitive area” dated 25th November 1987, 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 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 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.—(1) Subject to paragraph (2) below, payments made by the Minister under an agreement shall be at the rate of £30 per annum for each hectare of grassland and of land used for arable and fodder crops to which the agreement relates.

(a) 1950 c.27.

(2) Where an agreement includes the additional provisions specified in Schedule 2 as to agricultural practices, methods and operations and the installation and use of equipment, payments made by the Minister in respect of grassland and rough grazing land which under the agreement is subject to those additional provisions shall be at the rate of £80 per annum for each hectare of such land.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 25th November 1987.



John MacGregor
Minister of Agriculture, Fisheries and Food

We consent,

Michael Neubert
Peter Lloyd
Two of the Lords Commissioners of
Her Majesty's Treasury

26th November 1987

SCHEDULE 1

Article 4

REQUIREMENTS TO BE INCLUDED IN AGREEMENT

1. As regards any grassland (other than unimproved grassland) which is the subject of an agreement –

The farmer shall not install any new drainage system nor substantially modify any existing drainage system.

2. As regards land used for the purposes of growing arable or fodder crops which is the subject of an agreement –

The farmer shall not increase the hectareage of land which on 31st August 1987 was used for the purposes of growing arable or fodder crops.

3. As regards any woodland or scrub which is the subject of an agreement –

(1) The farmer shall retain broadleaved woodland, copses and trees.

(2) Within two years of the commencement of the agreement the farmer shall obtain from the persons or bodies designated by the Minister written advice on the management of woodland and scrub.

4. As regards all land which is the subject of an agreement –

(1) The farmer shall maintain hedges in accordance with a programme agreed in advance with the Minister. In any event, he shall maintain stockproof hedges in a stockproof condition and shall backfence hedges when laid.

(2) The farmer shall maintain trees growing on stream and river banks and shall retain other bankside vegetation.

(3) The farmer shall maintain hedgerow and other trees which he is entitled to maintain.

(4) The farmer shall maintain ponds and retain wet areas

(5) The farmer shall ensure in farming the land that he does not damage or destroy any feature of historic interest.

(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 using traditional materials.

(7) The farmer shall obtain from the Minister written advice concerning the 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).

SCHEDULE 2

Article 6(2)

ADDITIONAL PROVISIONS IN AGREEMENT TO OBTAIN HIGHER RATE OF PAYMENT

As regards any grassland (including unimproved grassland) and rough grazing land which is the subject of an agreement –

- (1) The farmer shall maintain grassland and shall not plough, level or re-seed. The farmer shall cultivate grassland only by means of chain harrow or roller, but not between 31st March and 16th July in any year. The farmer shall not use a chain harrow or roller at any time of the year on rough grazing land.
- (2) The farmer shall graze with livestock but not so as to cause poaching, overgrazing or undergrazing.
- (3) The farmer shall not apply any organic or inorganic fertiliser.
- (4) The farmer shall not mow or top the sward before 16th July in any year on grassland, nor at any time of the year on rough grazing land.
- (5) The farmer shall not install any new drainage system nor substantially modify any existing drainage system.
- (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, broadleaved 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 or temporary fence other than for the purposes of back-fencing when laying hedges.

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.

(a) S.I. 1977/289, 1980/1946, 1981/245, 1569, 1983/1615, 1985/1011, 1981; the relevant amending instrument is S.I. 1986/435.

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

This Order, which complies with Title V of Council Regulation (EEC) No. 797/85 (OJ No. L93, 30.3.85, p.1) on improving the efficiency of agricultural structures, designates an area in the Shropshire Borders 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) Midlands and Western Regional Office, Woodthorne, Wolverhampton WV6 8TQ;
- (b) Crewe Divisional Office, Berkeley Towers, Crewe, Cheshire CW2 6PT;
- (c) Shrewsbury Area Office, Whitehall, Monkmoor Road, Shrewsbury SY2 5AJ.

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 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). Payments to be made by the Minister under an agreement are to be at the rate of £30 per year per hectare of grassland or land used for arable or fodder crops to which the agreement relates, or, in the case of grassland and rough grazing land subject to the additional provisions set out in Schedule 2, at the rate of £80 per year per hectare of such land (article 6).