# 1987 No. 2030

# AGRICULTURE

# The Environmentally Sensitive Areas (North Peak) Designation Order 1987

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| *Made - - - -* | *26th November 1987* |
| *Laid before Parliament* | *30th November 1987* |
| *Coming into force* | *1st January 1988* |

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 (North Peak) 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;

"inbye land" means enclosed pasture land;

"livestock unit" means–

(a) 1 cow, or

(b) 1.4 bulls or other bovine animals over two years old, or

(c) 1.6 bovine animals from one to two years old inclusive, or

(a) 1986 c. 49.

(d) 2.5 bovine animals less than one year old, or

(e) 6.66 sheep;

"the Minister" means the Minister of Agriculture, Fisheries and Food;

"rough grazing land" means land covered by semi-natural vegetation;

"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 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 £10 per annum for each hectare of moorland, inbye land or rough grazing land to which the agreement relates.

(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 moorland, inbye land or rough grazing land which under the agreement is subject to those additional provisions shall be at the rate of £20 per annum for each hectare of such land.

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(a) 1950 c. 27.

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

L.S.

*John MacGregor*
Minister of Agriculture, Fisheries and Food

We consent,

*Michael Neubert*
*Peter Lloyd*

26th November 1987 Two of the Lords Commissioners of Her Majesty's Treasury

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## SCHEDULE 1

Article 4

## REQUIREMENTS TO BE INCLUDED IN AGREEMENT

**1.** As regards any moorland which is the subject of an agreement–

(1) The farmer shall ensure that between 31st December in any year and the following 1st April he grazes overwintering ewes and hoggs at a stocking rate not exceeding 75 per cent of the average stocking rate achieved by him in relation to the same land over the years 1985–1987 inclusive.

(2) The farmer shall carry out any supplementary feeding of livestock in rotation around the moorland and in any event not so as to cause poaching.

(3) The farmer shall burn or cut heather, grass or scrub in accordance with a programme agreed in advance with the Minister.

(4) The farmer shall not plough, level, re-seed or otherwise cultivate.

(5) The farmer shall not apply lime, slag or any substance designed to reduce the acidity of the soil.

(6) The farmer shall not apply any organic or inorganic fertiliser.

(7) The farmer shall not apply pesticides.

(8) 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 by spot treatment. In the case of bracken, control shall be by means of asulam or other chemical approved by the Minister.

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

(10) The farmer shall not erect any new fence across moorland.

**2.** As regards any inbye or enclosed rough grazing land which is the subject of an agreement–

(1) The farmer shall obtain the written consent of the Minister before–

(a) increasing the existing application rates of organic and inorganic fertiliser;

(b) applying any lime or slag or any substance designed to reduce the acidity of the soil;

(c) levelling, ploughing, re-seeding or otherwise cultivating;

(d) installing any new drainage system or substantially modifying any existing drainage system.

(2) The farmer shall not apply pesticides to land to which pesticides have not previously been applied.

(3) The farmer shall not apply herbicides to land to which herbicides have not previously been applied 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.

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

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.

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

(1) The farmer shall maintain stockproof walls in a stockproof condition using traditional methods and materials.

(2) 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.

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

(4) The farmer shall obtain from the Minister written advice concerning siting and materials before constructing buildings or roads or carrying out other engineering operations (including the provision of overhead telephone and electricity services) authorised under Class VI of the Town and Country Planning General Development Orders 1977 to 1985(**a**). This requirement shall not apply–

(a) to any development 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**), or

(b) to any development which must be notified to the local planning authority under the Town and Country Planning (Agriculture and Forestry Development in National Parks etc) Special Development Order 1986(**c**).

## SCHEDULE 2

Article 6(2)

## ADDITIONAL PROVISIONS IN AGREEMENT TO OBTAIN HIGHER RATE OF PAYMENT

**1.** As regards any inbye land and enclosed rough grazing land which is the subject of an agreement–

(1) The farmer shall exclude stock for at least seven weeks before cutting grass for hay or silage.

(2) The farmer shall not cut grass for hay or silage before 16th July in any year and in any event not before the herbage has flowered and set seed.

(3) Where the farmer cuts grass for hay or silage he shall graze the aftermath with livestock.

(4) The farmer shall graze with sheep at an average stocking rate not exceeding 0.3 livestock units per hectare per year but in any event not so as to cause poaching, undergrazing or overgrazing.

(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, 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 ensure that in farming the land he does not damage or destroy sites occupied by ground nesting birds. In any event, he shall not roll or chain harrow such sites between 31st March and 16th July in any year.

(9) The farmer shall obtain written advice from the Minister concerning the restoration of any damaged or derelict field walls.

**2.** As regards any moorland which is the subject of an agreement–

(1) In order to encourage heather regeneration, the farmer shall manage livestock grazing in accordance with a programme agreed in advance with the Minister. In any event, he shall graze with livestock at an average stocking rate not exceeding 0.15 livestock units per hectare per year.

(2) The farmer shall ensure that areas of recently burnt heather are grazed only lightly.

(3) The farmer shall carry out a programme of moorland regeneration relating to not less than one hectare of land and agreed in advance with the Minister. He shall begin the programme within one year of the commencement of the agreement. Notwithstanding Schedule 1, paragraph 1, sub-paragraphs (6) and (10), the programme may provide for the application of any organic or inorganic fertiliser and for the erection of temporary fencing across moorland.

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(**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.
(**c**) S.I. 1986/1176.

## 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, 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 North Peak 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) Northern Regional Office, Block 2, Government Buildings, Lawnswood, Leeds LS16 5PY;

(b) Midlands and Western Regional Office, Woodthorne, Wolverhampton WV6 8TQ;

(c) Beverley Divisional Office, St Mary's Manor, Beverley HU17 8DN;

(d) Nottingham Divisional Office, Block 7, Chalfont Drive, Nottingham NG8 3SN;

(e) Bakewell Area Office, The Avenue, Bakewell, Derbyshire DE4 1EQ.

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 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). Payments to be made by the Minister under an agreement are to be at the rate of £10 per year per hectare of moorland, inbye land or rough grazing land to which the agreement relates, or, where such land is subject to the additional provisions set out in Schedule 2, at the rate of £20 per hectare per year (article 6).