STATUTORY RULES OF NORTHERN IRELAND

2005 No. 276

AGRICULTURE

Environmentally Sensitive Areas Designation Order (Northern Ireland) 2005

Made - - - -	*26th May 2005*
Coming into operation	*8th June 2005*

Whereas, in accordance with Article 3(1) of the Agriculture (Environmental Areas) (Northern Ireland) Order 1987(**1**) ("the 1987 Order"), it appears to the Department of Agriculture and Rural Development ("the Department") that it is particularly desirable –

(1) to conserve and enhance the natural beauty of the areas referred to in Article 3 and Schedule 1;

(2) to conserve the flora and fauna and geological and physiographical features of those areas; and

(3) to protect buildings and other objects of archaeological, architectural or historic interest in those areas;

And whereas, in accordance with the said Article 3(1) of the 1987 Order, it appears to the Department that the maintenance and adoption of the agricultural methods specified in Schedules 2, 4 and 5 are likely to facilitate the aforementioned conservation, enhancement and protection;

Now, therefore, the Department, in exercise of the powers conferred on it by Article 3(1) and (3) of the 1987 Order and of every other power enabling it in that behalf, and with the consent of the Department of Finance and Personnel, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Environmentally Sensitive Areas Designation Order (Northern Ireland) 2005 and shall come into operation on 8th June 2005.

Interpretation

2.—(1) In this Order –

"agreement" means an agreement made after the coming into operation of this Order under Article 3(2) of the Agriculture (Environmental Areas) (Northern Ireland) Order 1987 as respects agricultural land in any of the areas designated by Article 3;

"arable land" means land on which cereal or other arable crops are grown;

(**1**) S.R. 1987/458 (N.I. 3)

"archaeological features" means all extant historic or archaeological sites which have been identified by the Department of the Environment in the Sites and Monuments Record;

"Area of Special Scientific Interest" means an area of land declared to be an area of special scientific interest under Part VI of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985(**2**);

"bat box" means a box for bats to replace the natural location lost through changes in farming practice;

"breeding wader sites" means sites used by breeding waders;

"broadleaved farm woodland" means vegetation dominated by a minimum of 50% cover of broadleaf native trees, containing a minimum of 80% native species;

"conservation cereal" means an area of crop which is grown with minimal use of pesticides;

"closed grazing period" means a period when grazing of livestock is not permitted by or under any statutory provisions;

"fallow plot" means a plot of arable ground that is ploughed in spring or autumn and not sown with any crop;

"farmer" means a person who has an estate in agricultural land in any of the areas designated by Article 3 and Schedule 1 and who has entered an agreement with the Department;

"fen" means an area which is waterlogged and flooded in the winter and remains damp in the summer with a vegetation characterised by the absence of terrestrial plants;

"field boundaries" means hedgerows, sod banks, or dry stone walls and associated features;

"grass margin" means a strip of unfertilised land between 2 and 25 metres wide adjacent to an Area of Special Scientific Interest, National Nature Reserve, Natura 2000 site, watercourse or woodland or between 2 and 6 metres wide adjacent to a field boundary;

"habitat" means the normal abode or locality of animals or plants;

"heather moorland" means land supporting at least 5% cover of heather, bell heather, cross-leafed heath, bilberry and western gorse;

"heritage feature" includes rural features of historic interest;

"improved land" means grassland on which more than 25% of the sward is comprised of rye-grass, timothy, red-fescue or white clover and any land used for arable crops;

"land" means the area designated in Schedule 2;

"large nest box" means a nest box with a floor area of approximately 203mm x 165mm for birds to replace the natural location lost through changes in farming practice;

"lowland raised bog" means intact or cut-over dome shaped peatland;

"management plan" means a set of prescriptions for the management of field boundaries, farm wastes and habitats;

"moorland" means land with predominantly semi-natural upland vegetation, or comprising predominantly rock outcrops and semi-natural upland vegetation;

"National Nature Reserve" means land declared to be a national nature reserve under Article 18 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985;

"Natura 2000 site" means an area designated as a Special Area of Conservation (SAC) under Council Directive 92/43/EEC(**3**) or as a Special Protection Area (SPA) under Council Directive 74/409/EEC(**4**);

(**2**) S.I. 1985/170 (N.I. 1) as amended by 1989/492 (N.I. 3)
(**3**) O.J. No. L206, 22.7.92, p. 7
(**4**) O.J. No. L103, 25.4.79, p. 1

"parkland" means an enclosed area of land at least 3 hectares in extent with a minimum of two mature trees per hectare;

"parkland management plan" means a management plan agreed with the Department designed to restore parkland through a programme of tree planting and restoration of landscape features;

"protective fencing" means a woven wire or line wire fence completed to at least BS1722 standards;

"red squirrel feeder" means a hopper feeder that enables squirrels to reach food by utilising the weight difference between adult red and grey squirrels;

"reed bed" means a wetland dominated by stands of the common reed where reed cover is greater than 75%;

"restricted grazing period" means a time of year when limits to stocking levels apply;

"rough grass field margin" means land forming a strip with a minimum width of 2 metres around arable fields in which cereal or other arable crops are being grown and on which a suitable grass mixture is sown;

"rough moorland grazing" means coarse grassland vegetation comprising wholly or mainly mat-grass, purple moor-grass, cotton-grasses, wavy hair grass and sedges;

"scrape" means a shallow depression temporarily or permanently holding water created for the benefit of breeding waders;

"scrub" means woody vegetation under 2 metres tall;

"semi-natural grassland" means grassland characterised by sward of low productivity grasses, sedges or rushes and a high cover of herbaceous plants;

"small nest box" means a nest box with a floor area of approximately 120mm x 150mm for birds to replace the natural location lost through changes in farming practice;

"species rich grassland" means grassland with a sward of low productivity grasses and a high cover of herbaceous plants;

"species rich hay meadows" means species rich grassland used for the production of hay;

"traditional orchard" means an orchard planted with traditional varieties and no greater than 0.4 hectares;

"undersown cereals" means a spring cereal crop sown with a green cover crop such as ryegrass;

"unimproved land" means grassland containing not more than 25% rye grass, timothy, red fescue or white clover;

"wetlands" means an area with a naturally high water table, at least until mid June and generally liable to seasonal flooding;

"wild bird cover crop" means a crop mixture which is not normally used for agricultural production and where the individual components cannot be harvested separately;

"winter feeding sites for migratory swans and geese" means fields of grassland or winter cereals or oilseed rape which have been regularly used for winter grazing by a minimum of 25 swans or geese (except Canada goose and feral Greylag goose) for at least three of the previous five winters.

Designation of environmentally sensitive areas

3. The Department hereby designates as environmentally sensitive areas the areas of land listed and described in Schedule 1.

Requirements of agreements, additional matters in respect of which payments may be made and amounts of payments

4.—(1) The requirements as to agricultural practices, methods and operations and the installation or use of equipment which must be included in agreements are those specified in Schedule 2.

(2) Subject to the provisions of this Article, the Department may make payments under an agreement in consideration of the requirements included in the agreement pursuant to paragraph (1), up to the maximum payment rate as set out in Schedule 3 for each hectare of land managed to which the agreement relates.

(3) The additional matters in respect of which the Department may make payments under an agreement are specified in column 1 of Schedule 4 and column 1 of Schedule 5.

(4) Subject to the provisions of this Article, the Department may make payments under an agreement in consideration of a matter included in the agreement pursuant to paragraph (3) and Schedule 3 or Schedule 4 up to the maximum payment rate specified in column 2 of Schedule 3 or, as the case may be, column 2 of Schedule 4 opposite the reference to that matter.

(5) Subject to paragraph (6), payments under paragraph (4) in consideration of a matter included in the agreement pursuant to paragraph (3) and Schedule 5 shall not exceed £2,500 per annum for each farmer.

(6) For the purposes of paragraph (5) the matters set out in the following paragraphs of Schedule 5 shall be disregarded –

(a) paragraph 2(d);

(b) paragraph 2(e) and (f) provided the activities undertaken form part of a parkland management plan;

(c) paragraph 3;

(d) paragraph 7;

(e) paragraph 8(c) and (d) provided the activities undertaken are associated with fencing of habitats;

(f) paragraph 9.

(7) Subject to the provisions of this Order the Department shall make payments of grant in arrears, with such frequency as the Department may determine, not exceeding 2 payments per year.

(8) The Department shall not accept an application for grant in relation to any eligible land which is occupied by a tenant unless it is satisfied that the tenant has notified the landlord of his intention to make the application.

(9) The Department shall not accept an application for grant for an area of less than 3 hectares.

Revocation and saving

5.—(1) Subject to paragraph (2), the Environmentally Sensitive Areas Designation Order (Northern Ireland) 2001(**5**) is hereby revoked.

(2) The revocation in paragraph (1) shall not apply in relation to any agreement made under Article 3(2) of the 1987 Order before the coming into operation of this Order.

(**5**) S.R. 2001/269

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 26th May 2005.

David Small
A senior officer of the
Department of Agriculture and Rural
Development

The Department of Finance and Personnel hereby consents to the foregoing Order.
Sealed with the Official Seal of the Department of Finance and Personnel on 26th May 2005.

Jack Layberry
A senior officer of the
Department of Finance and Personnel