1994 No. 212

AGRICULTURE

Environmentally Sensitive Areas (Slieve Gullion) Designation Order (Northern Ireland) 1994

Made	*9th June 1994*
Coming into operation . .	*11th July 1994*

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

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

(2) to conserve the flora and fauna and geological and physiographical features of that area; and

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

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

Now, therefore, the Department of Agriculture, 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, 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 (Slieve Gullion) Designation Order (Northern Ireland) 1994 and shall come into operation on 11th July 1994.

Interpretation

2. In this Order—

"agreement" means an agreement under Article 3(2) of the Agriculture (Environmental Areas) (Northern Ireland) Order 1987 as respects agricultural land in the area designated by Article 3;

(a) S.I. 1987/458 (N.I. 3)

"dry heath" means heather moorland which consists predominantly of species such as heather, dwarf gorse, bilberry and wavy hair grass;

"farm business" means a business or part of a business which engages in agricultural production for the purposes of trade;

"farm conservation plan" means a layout plan of the farm and an attached statement identifying relevant land and conservation features and setting out, as appropriate, details of how the requirements in the agreement will be implemented on the farm;

"farmer" means a person who has an estate in agricultural land in the area designated by Article 3 and who has entered into an agreement with the Department;

"heather moorland" means land comprised of more than 25% heather or heather-like shrub cover;

"improved land" means grassland on which more than 20% of the sward is comprised of ryegrass, timothy, red fescue or white clover, any land under cultivation at the date of an agreement or any land (other than grassland) uncultivated at the date of an agreement but which has been previously cultivated;

"livestock" means bovine animals, sheep, goats or equine animals;

"livestock unit" means—

(*a*) 1.6 bovine animals from 6 months to 2 years old inclusive; or

(*b*) 1 bovine animal more than 2 years old;

(*c*) 6.6 sheep or goats;

(*d*) 1.66 equine animals from 1 year to 2 years old inclusive;

(*e*) 1.2 equine animals from 2 years to 3 years old inclusive; or

(*f*) 0.8 equine animals more than 3 years old;

"pesticide" includes herbicide, fungicide or insecticide;

"rough moorland grazing" means grassland the vegetation of which is comprised wholly or mainly of matt grass, purple moor grass, cotton grasses, wavy hair grass or sedges;

"scrubland" means land which is covered wholly or mainly by stunted trees or brushwood;

"stocking density" means the number of livestock units per hectare of land occupied by the farm business;

"supplementary feeding area" means any land occupied by the farm business (other than a farm building or farmyard) where concentrates, fodder or mineral licks are fed to livestock;

"unimproved grassland" means grassland on which less than 20% of the sward is comprised of ryegrass, timothy, red fescue or white clover;

"wet heath" means heather moorland which consists predominantly of species such as heather, sedges, rushes and bog cotton;

"wetland" or "marsh" means any ground which is normally saturated with water;

"wildlife corridor" shall be construed in accordance with paragraph 1 of Part I of Schedule 3; and

"woodland" means woodland which is comprised wholly or mainly of broad leaved species.

Designation of environmentally sensitive area

3. The Department hereby designates as an environmentally sensitive area that area of land in County Armagh which is shown coloured green on the map marked "Map of Slieve Gullion Environmentally Sensitive Area" dated 19th May 1994 signed and sealed by the Secretary of the Department and deposited at the offices of the Department at Dundonald House, Upper Newtownards Road, Belfast BT4 3SB.

Requirements and provisions of agreement

4. As regards land which is the subject of an agreement, such an agreement shall include the relevant requirements specified in Schedules 1 and 2 as to agricultural practices, methods and operations and the installation and use of equipment and may also include one or more of the relevant provisions specified in Schedule 3.

Breach of requirement or provisions

5. An agreement shall include provisions that—

(*a*) in the event of a breach by the farmer of any of the relevant requirements or provisions referred to in Article 4, then the Department 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 whole or any part of the payments made to him by the Department under the agreement; and

(*b*) any question arising under an agreement as to whether there has been a breach of any of the relevant requirements or provisions 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 such agreement to be appointed by the Chairman for the time being of the Northern Ireland Branch of the Royal Institution of Chartered Surveyors and in accordance with the provisions of the Arbitration Act (Northern Ireland) 1937(**a**) or any statutory modification or re-enactment thereof for the time being in force.

Rates of payment

6.—(1) Subject to Article 7 where an agreement relates to any land to which the requirements of Schedule 1 apply the Department shall make payments for each hectare of such land as follows:

(*a*) If the land is unimproved grassland at the rate of £40 per annum.

(*b*) If the land is improved land at the rate of £25 per annum.

(*c*) If the land is rough moorland grazing at the rate of £10 per annum.

(**a**) 1937 c. 8 (N.I.)

(2) Where an agreement relates to any land specified in column 1 of the Table the Department shall make payments for each hectare of such land at the rates per annum set out in the corresponding entry opposite thereto in column 2 of the said Table.

TABLE

(1)	(2) *£ for each hectare of land per annum*
Woodland or Scrubland	70
Heather Moorland	50
Building or object of archaeological, architectural or historic interest	80 (for each 0.25 hectare)

7. Where an agreement relates to any land to which Part I of Schedule 3 applies, the Department shall make payments for each hectare of such land as follows:

(*a*) if the land is unimproved grassland at the rate of £100 per annum;

(*b*) if the land is improved land at the rate of £200 per annum;

(*c*) if the land is rough moorland grazing at the rate of £50 per annum.

Rates of Payments Under Enhancement Provisions

8.—(1) Subject to paragraph (2), where an agreement relates to any land to which Part II of Schedule 3 applies, the Department shall, in addition to any payments made under Article 6 or 7, make payments according to the operations which have been carried out under the provisions of that Part.

(2) Payments made by virtue of this Article shall not exceed £3,000 in any year.

Sealed with the Official Seal of the Department of Agriculture on 9th June 1994.

(L.S.) *L. Sinclair*
Assistant Secretary

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 9th June 1994.

(L.S.) *R. Miller*
Assistant Secretary

Requirements to be included in an agreement

1. As regards all land which is the subject of an agreement, the farmer shall prepare and agree with the Department a farm conservation plan which shall identify any conservation features relevant to the requirements of paragraphs 2 to 20 and Schedule 2 and which may also include one or more of the additional conservation provisions specified in Schedule 3.

2. The farmer shall not increase the stocking density on lands owned or occupied by him for the purpose of his farm business to a level above that which existed on average during the period between 1st January 1993 and 31st December 1993, both dates inclusive, and in any case shall ensure that undergrazing or overgrazing does not occur.

3. The farmer shall apply fertiliser only in accordance with the written advice of the Department and in any event shall not cause or permit:

(*a*) any increase of the existing rate of application of organic fertiliser, inorganic fertiliser or any mixture thereof; or

(*b*) in any year the application of nitrogen in such fertiliser at a rate exceeding 260 kilogrammes per hectare.

4. The farmer shall not carry out any land reclamation work.

5. The farmer shall not install new underdrainage or substantially modify existing drainage systems.

6. The farmer shall not undertake ploughing, levelling or reseeding of unimproved grassland or of land not previously cultivated.

7. The farmer shall not apply lime to rough moorland grazing.

8. The farmer shall not:

(*a*) undertake any tree planting;

(*b*) undertake the construction or reconstruction of any farm road;

(*c*) undertake the construction of any new farm building;

(*d*) carry out any major repair or renovation work to any existing farm building;

(*e*) apply fungicides or insecticides to agricultural land other than improved land; or

(*f*) apply any pesticides to the bottoms of field boundaries;

except with the prior written permission of the Department.

9. The farmer shall not apply herbicides except to control nettles, spear thistle, creeping thistle, field thistle, curled dock, broad-leaved dock, ragwort or bracken. Except on improved land or for the purpose of controlling bracken, herbicides used for the purposes of this paragraph shall be applied only by spot treatment or weed wiper.

10. The farmer shall ensure that no pollution occurs due to the escape of silage effluent, sheep dip or other pollutant.