1993 No. 180

AGRICULTURE

Environmentally Sensitive Areas (West Fermanagh and Erne Lakeland) Designation Order (Northern Ireland) 1993

Made	*5th April 1993*
Coming into operation . .	*10th May 1993*

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 archaelogical, 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 (West Fermanagh and Erne Lakeland) Designation Order (Northern Ireland) 1993 and shall come into operation on 10th May 1993.

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)

"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;

"hay meadow" means grassland primarily used for the production of hay;

"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;

"limestone grassland" means grassland containing or comprised of:

— limestone rock outcrops; or

— shallow soil overlying limestone;

"livestock" means bovine animals, sheep or goats;

"livestock unit" means—

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

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

(*c*) 6.6 sheep or goats;

"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;

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

"wet pasture" means grassland the soil of which is normally saturated with water and is liable to seasonal flooding;

"wildlife corridor" shall be construed in accordance with paragraph 1 of Part III of Schedule 3.

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

Designation of environmentally sensitive area

3. The Department hereby designates as an environmentally sensitive area that area of land in County Fermanagh which is shown coloured green on the map marked "Map of West Fermanagh and Erne Lakeland Environmentally Sensitive Area" dated 30th March 1993 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 requirements 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 paragraph (2), 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 £45 per annum.

(*b*) If the land is improved land at the rate of £30 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*
Hay meadow	110
Wet Pasture	110
Limestone Grassland	90
Woodland or Scrubland	70
Heather Moorland	50
Building or object of archaeological architectural or historic interest	80 (for each 0.25 hectare)

(3) Where an agreement relates to any hay meadow to which Part I of Schedule 3 applies, the Department shall in addition to the payments specified in the first entry in column 1 of the Table to paragraph (2), make payments for each hectare of such hay meadow at the rate of £30 per annum.

(4) This Article shall have effect subject to the provisions of Article 7.

7.—(1) Subject to paragraph (2), where an agreement relates to any grassland to which Part II of Schedule 3 applies the Department shall make payments for each hectare of such grassland at the rate of £60 per annum.

(2) Where an agreement relates to any land to which Part III 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 IV 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:

(*a*) £100 per annum for each hectare of land to which that agreement relates; or

(*b*) £2,000 in any year,

whichever is the lesser.

Sealed with the Official Seal of the Department of Agriculture on 5th April 1993.

(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 5th April 1993.

(L.S.) *J. H. Caldwell*
Assistant Secretary