



# Agriculture Act 1986

## 1986 CHAPTER 49

### *Conservation*

#### **17 Duty to balance interests in exercise of agricultural functions.**

- (1) In discharging any functions connected with agriculture in relation to any land the Minister shall, so far as is consistent with the proper and efficient discharge of those functions, have regard to and endeavour to achieve a reasonable balance between the following considerations—
- (a) the promotion and maintenance of a stable and efficient agricultural industry;
  - (b) the economic and social interests of rural areas;
  - (c) the conservation and enhancement of the natural beauty and amenity of the countryside (including its flora and fauna and geological and physiographical features) and of any features of archaeological interest there; and
  - (d) the promotion of the enjoyment of the countryside by the public.
- (2) In this section—
- “agriculture” has the same meaning as in the <sup>M1</sup>Agriculture Act 1947 or, in Scotland, the <sup>M2</sup>Agriculture (Scotland) Act 1948; and
  - “the Minister” means—
    - (a) in relation to land in England, the Minister of Agriculture, Fisheries and Food; and
    - (b) in relation to land in Wales or Scotland, the Secretary of State.

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#### **Modifications etc. (not altering text)**

**C1** S. 17 explained by [Farm Land and Rural Development Act 1988 \(c. 16, SIF 2:1\), s. 4\(2\)](#)

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#### **Marginal Citations**

**M1** 1947 c. 48.  
**M2** 1948 c. 45.

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*Changes to legislation: There are currently no known outstanding effects for the Agriculture Act 1986, Cross Heading: Conservation. (See end of Document for details)*

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## **18 Designation and management of environmentally sensitive areas.**

- (1) If it appears to the Minister that it is particularly desirable—
- (a) to conserve and enhance the natural beauty of an area;
  - (b) to conserve the flora or fauna or geological or physiographical features of an area; or
  - (c) to protect buildings or other objects of archaeological, architectural or historic interest in an area,
- and that the maintenance or adoption of particular agricultural methods is likely to facilitate such conservation, enhancement or protection, he may, with the consent of the Treasury and after consulting the persons mentioned in subsection (2) below as to the inclusion of the area in the order and the features for which conservation, enhancement or protection is desirable, by order designate that area as an environmentally sensitive area.
- (2) The persons referred to in subsection (1) above are—
- (a) in the case of an area in England, the Secretary of State, the Countryside Commission and the Nature Conservancy Council [<sup>F1</sup>for England];
  - (b) in the case of an area in Wales, the [<sup>F2</sup>Countryside Council for Wales]; and
  - (c) in the case of an area in Scotland, the Countryside Commission for Scotland and the Nature Conservancy Council [<sup>F1</sup>for Scotland].
- (3) If the Minister considers that any of the purposes mentioned in paragraphs (a) to (c) of subsection (1) above is likely to be facilitated in a designated area by doing so, he may make an agreement with any person having an interest in agricultural land in, or partly in, the area by which that person agrees in consideration of payments to be made by the Minister to manage the land in accordance with the agreement.
- (4) An order under this section designating an area may specify—
- (a) the requirements as to agricultural practices, methods and operations and the installation or use of equipment which must be included in agreements under subsection (3) above as respects land in the area;
  - (b) the period or minimum period for which such agreements must impose such requirements;
  - (c) the provisions which must be included in such agreements concerning the breach of such requirements; and
  - (d) the rates or maximum rates at which payments may be made by the Minister under such agreements and the matters in respect of which such payments may be made.
- (5) Subject to the foregoing provisions of this section, an agreement under subsection (3) above may contain such provisions as the Minister thinks fit and, in particular, such provisions as he considers are likely to facilitate such conservation, enhancement or protection as is mentioned in subsection (1) above.
- (6) The Minister shall not make an agreement with any person under subsection (3) above in respect of any land unless that person has certified to the Minister—
- (a) that no person other than he is the owner of the land; or
  - (b) that he has notified any other person who is an owner of the land of his intention to make an agreement under subsection (3) above in respect of the land;

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and in this subsection references to the owner of the land are to the estate owner in respect of the fee simple in the land or, in Scotland, the absolute owner of the land within the meaning of section 93 of the <sup>M3</sup>Agricultural Holdings (Scotland) Act 1949.

- (7) The provisions of an agreement under subsection (3) above with any person interested in any land in England or Wales shall, unless the agreement otherwise provides, be binding on persons deriving title under or from that person and be enforceable by the Minister against those persons accordingly.
- (8) Where agreements have been made under subsection (3) above with persons having an interest in land in a designated area the Minister shall arrange for the effect on the area as a whole of the performance of the agreements to be kept under review and shall from time to time publish such information as he considers appropriate about those effects.
- (9) Schedule 2 to the <sup>M4</sup>Forestry Act 1967 (power for tenant for life and others to enter into forestry dedication covenants, or, in Scotland, forestry dedication agreements) shall apply to agreements under subsection (3) above as it applies to forestry dedication covenants or, as the case may be, forestry dedication agreements.
- (10) This section applies to land an interest in which belongs to Her Majesty in right of the Crown or to the Duchy of Lancaster, the Duchy of Cornwall or a Government department or which is held in trust for Her Majesty for the purposes of a Government department, but no agreement under subsection (3) above shall be made as respects land to which this subsection applies without the consent of the appropriate authority.
- (11) In this section—  
“agricultural” has the same meaning as in the <sup>M5</sup>Agriculture Act 1947 or, in Scotland, the <sup>M6</sup>Agriculture (Scotland) Act 1948;  
“the appropriate authority” has the same meaning as in section 101(11) of the National Parks and Access to the <sup>M7</sup>Countryside Act 1949;  
“the Minister” means—  
(a) in relation to an area in England, the Minister of Agriculture, Fisheries and Food; and  
(b) in relation to an area in Wales or Scotland, the Secretary of State.
- (12) The power to make an order under this section shall be exercisable by statutory instrument and any statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (13) An Order in Council under paragraph 1(1)(b) of Schedule 1 to the <sup>M8</sup>Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for purposes corresponding to those of this section—  
(a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but  
(b) shall be subject to annulment in pursuance of a resolution of either House.

#### Textual Amendments

- F1** Words in s. 18(2) inserted (1.4.1991) as provided by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 132, [Sch. 9 para. 13](#); S.I. 1991/685, [art. 3](#)
- F2** Words in s. 18(2)(b) substituted (1.4.1991) as provided by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 132, [Sch. 9 para. 13](#); S.I. 1991/685, [art. 3](#)

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#### **Marginal Citations**

- M3** 1949 c. 75
- M4** 1967 c. 10.
- M5** 1947 c. 48.
- M6** 1948 c. 45.
- M7** 1949 c. 97.
- M8** 1974 c. 28.

### **19 Supplementary provisions regarding agreements under s.18(3) in Scotland.**

- (1) Where a person having an interest of a kind described in section 18(3) above in land in Scotland, being an interest which enables him to bind the land, enters into an agreement under that subsection—
  - (a) where the land is registered in the Land Register of Scotland, the agreement may be registered in that Register;
  - (b) in any other case the agreement may be recorded in the appropriate Division of the General Register of Sasines.
- (2) An agreement registered or recorded under subsection (1) above shall be enforceable at the instance of the Secretary of State against persons deriving title to the land (including any person acquiring right to a tenancy by assignation or succession) from the person who entered into the agreement; provided that such an agreement shall not be enforceable against a third party who shall have in good faith and for value acquired right (whether completed by infetment or not) to the land prior to the agreement being registered or recorded as aforesaid, or against any person deriving title from such third party.
- (3) Notwithstanding the terms of any agreement registered or recorded under subsection (1) above, the parties to the agreement or any persons deriving title from them may at any time agree to terminate it; and such an agreement to terminate it shall be registered or recorded in the same manner as was the original agreement.
- (4) A grazings committee appointed under section 24 of the <sup>M9</sup>Crofters (Scotland) Act 1955 may, with the consent of a majority of the crofters ordinarily resident in the township, enter into an agreement under section 18(3) above in relation to any part of the common grazings and may agree to the revocation or variation of any such agreement, and such agreement, revocation or variation shall be binding upon all their successors.
- (5) In the case of an agreement of a kind referred to in subsection (4) above, the payments by the Secretary of State shall be made to the grazings committee and shall be applied by them either—
  - (a) by division among the crofters who share in the common grazings in proportion to their respective rights therein; or
  - (b) subject to subsection (6) below, in carrying out works for the improvement of the common grazings or the fixed equipment required in connection therewith.
- (6) A grazings committee to whom such a payment as is referred to in subsection (5) above has been made and who are proposing to apply the payment in carrying out works in accordance with paragraph (b) of that subsection shall give notice in writing to each crofter sharing in the common grazings of their proposals: and any such crofter may within one month of the date of such notice make representations in respect of

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the proposals to the Crofters Commission who may approve them with or without modifications or reject them.

- (7) “Crofter” and other expressions used in any of subsections (4) to (6) above and in section 3 of the Crofters (Scotland) Act 1955 have the same meaning in this section as they have in that section as read with section 15(6) of the <sup>M10</sup>Crofters (Scotland) Act 1961.

#### Marginal Citations

**M9** 1955 c. 21.

**M10** 1961 c. 58.

## 20 EEC farm grants relating to areas of special scientific interest or National Parks etc.

- (1) The provisions of this section shall have effect for the purpose of amending certain provisions of the <sup>M11</sup>Wildlife and Countryside Act 1981 which apply to grants under schemes made under section 29 of the <sup>M12</sup>Agriculture Act 1970 so as to apply them to certain agricultural grants under regulations made under section 2(2) of the <sup>M13</sup>European Communities Act 1972.
- (2) In subsection (1) of section 32 of the said Act of 1981 (duties of agriculture Ministers to exercise functions so as to further conservation where applications are made to them for grants under such schemes with respect to areas of special scientific interest)—
- (a) for the words “a grant under a scheme made under section 29 of the Agriculture Act 1970 (farm capital grants)” there shall be substituted the words “a farm capital grant”; and
- (b) in paragraph (a) for the words “the scheme and section 29 of the said Act of 1970” there shall be substituted the words “the grant provisions”.
- (3) For subsection (3) of that section (definition of “the appropriate Minister”) there shall be substituted—
- “(3) In this section—
- “the appropriate Minister” means the Minister responsible for determining the application;
- “farm capital grant” means—
- (a) a grant under a scheme made under section 29 of the Agriculture Act 1970; or
- (b) a grant under regulations made under section 2(2) of the European Communities Act 1972 to a person carrying on an agricultural business within the meaning of those regulations in respect of expenditure incurred or to be incurred for the purposes of or in connection with that business, being expenditure of a capital nature or incurred in connection with expenditure of a capital nature;
- “grant provisions” means—
- (i) in the case of such a grant as is mentioned in paragraph (a) above, the scheme under which the grant is made and section 29 of the Agriculture Act 1970; and

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- (ii) in the case of such a grant as is mentioned in paragraph (b) above, the regulations under which the grant is made and the Community instrument in pursuance of which the regulations were made.”.
- (4) In subsection (3) of section 41 of the said Act of 1981 (which makes similar provision in relation to land which is in a National Park or an area specified for the purposes of that subsection)—
  - (a) for the words “a grant under a scheme made under section 29 of the Agriculture Act 1970 (farm capital grants)” there shall be substituted the words “a farm capital grant”;
  - (b) in paragraph (a) for the words “the scheme and the said section 29” there shall be substituted the words “the grant provisions”.
- (5) In subsection (5) of the said section 41 (definitions) for the definitions of “agricultural business” and “the appropriate Minister” there shall be substituted—
  - ““agricultural business” has the same meaning as in section 29 of the Agriculture Act 1970;
  - “the appropriate Minister”, “farm capital grant” and “grant provisions” have the same meanings as in section 32;”.
- (6) For the definition of “farm capital grant” in subsection (4) of section 50 of that Act (payments under certain agreements offered by authorities where applications for grants under section 29 of the said Act of 1970 are refused) there shall be substituted—
  - ““farm capital grant” has the same meaning as in section 32;”

**Marginal Citations**

**M11** 1981 c. 69.  
**M12** 1970 c. 40.  
**M13** 1972 c. 68.

21 ..... F3

**Textual Amendments**

**F3** S. 21 repealed by Rights of Way Act 1990 (c. 24, SIF 59), s. 6(4)

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