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STATUTORY INSTRUMENTS

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**1992 No. 54**

**AGRICULTURE**

**The Environmentally Sensitive Areas  
(The Broads) Designation Order 1992**

<i>Made</i>	- - - -	<i>15th January 1992</i>
<i>Laid before Parliament</i>		<i>15th January 1992</i>
<i>Coming into force</i>	- -	<i>5th February 1992</i>

Whereas, as mentioned in section 18(1) of the Agriculture Act 1986<sup>(1)</sup>, it appears to the Minister of Agriculture, Fisheries and Food (“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) 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) and (4) 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 for England<sup>(2)</sup> 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:

**Title and commencement**

1. This Order may be cited as the Environmentally Sensitive Areas (The Broads) Designation Order 1992 and shall come into force on 5th February 1992.

**Interpretation**

2.—(1) In this Order—

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<sup>(1)</sup> 1986 c. 49. The expression “the Minister” is defined in section 18(11).

<sup>(2)</sup> The provisions in section 18 of the Agriculture Act 1986 concerning Nature Conservancy Councils were amended by Part VII of, and Schedule 9 to, the Environmental Protection Act 1990 (c. 43).

“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 also has entered into an agreement with the Minister;

“grassland” means land on which the vegetation consists primarily of grass species;

“strip” means a strip of land at least six metres wide located at the edge of a field, used for the production of arable crops and adjoining an open drainage channel.

(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 Broads in the Counties of Norfolk and Suffolk which is shown coloured yellow on the maps contained in the volume of maps marked “volume of maps of the Broads environmentally sensitive area” dated 13th January 1992 signed and sealed by the Minister and deposited at the offices of the Ministry of Agriculture, Fisheries and Food, 17 Smith Square, London SW1P 3HX.

### **Requirements and provisions of 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.

### **Breach of requirements or provisions**

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 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(3) or any statutory modification or re-enactment thereof for the time being in force.

### **Rates of payment under agreement**

6.—(1) The Minister shall make payments under an agreement at the rate of £125 per annum for each hectare of grassland to which the agreement relates.

(2) Where an agreement includes the additional provisions specified in Schedule 2 or 3 or the provisions set out in one or more of the options contained in Schedule 4, the Minister shall make payments at the rate per annum for each hectare of land which under the agreement is subject to those additional provisions or options shown in the following table—

	£ per hectare of land per annum
Schedule 2	220

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	£ per hectare of land per annum
Schedule 3	250
Schedule 4	
—Option 1	200
—Option 2	280

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(3) Where an agreement includes one or more of the conservation plan operations specified in Schedule 5, the Minister shall make payments according to the operations which are carried out at a rate not exceeding £75 per annum for each hectare of land to which the agreement relates, subject to a maximum of £3,000 per agreement.

### **Revocation and saving**

7. The Environmentally Sensitive Areas (The Broads) Designation Order 1986<sup>(4)</sup> is hereby revoked, except that the provisions of that Order shall continue to apply to agreements made in relation to it on or before 31st December 1991.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 14th January 1992.

L.S.

*John Selwyn Gummer*  
Minister of Agriculture, Fisheries and Food

We consent

*Thomas Sackville*  
*Nicholas Baker*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

15th January 1992

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(4) S.I.1986/2254, amended by S.I.1988/175.

SCHEDULE 1

Article 4

REQUIREMENTS TO BE INCLUDED IN AGREEMENT

1. As regards any grassland which is the subject of an agreement—

(1) The farmer shall maintain grassland and shall not plough, level or reseed and shall not cultivate except with a chain harrow or roller;

(2) The farmer shall graze with cattle, sheep or horses but not so as to cause poaching, overgrazing or undergrazing;

(3) The farmer shall take no more than one cut of hay or silage each year and shall graze the aftermath;

(4) The farmer shall not increase his existing application rates of inorganic fertiliser and shall not in any event apply more than 125 kilogrammes of nitrogen, 75 kilogrammes of phosphate and 75 kilogrammes of potash per hectare per year. The farmer shall use no more than 94 kilogrammes of nitrogen per hectare in any one application;

(5) The farmer shall not apply pig slurry or poultry manure and shall not increase his existing application rates of organic manure.

The farmer shall not apply farmyard manure except manure which has been produced on his own farm and shall not apply more than 30 tonnes per hectare in a year.

The farmer shall not apply cattle slurry except slurry which has been produced on his own farm and shall not apply more than 30 cubic metres per hectare at 10 per cent dry matter in a year or the equivalent if the dry matter is less than 10 per cent;

(6) The farmer shall not apply fungicides or insecticides;

(7) The farmer shall not apply herbicides except to control nettles, spear thistle, creeping or field thistle, curled dock, broad-leaved dock or ragwort. Infestations of these weeds shall be controlled by cutting or by herbicides. Herbicides used for these purposes shall be applied by weed wiper or by spot treatment.

2. As regards all land which is the subject of an agreement—

(1) The farmer shall not mole-drain or install under-drainage. The farmer shall not subsoil or slit drain or modify substantially his existing drainage system;

(2) The farmer shall maintain existing dykes in rotation by mechanical means.

The farmer shall dry and level spoil after slubbing out;

(3) The farmer shall ensure that water is maintained at a suitable level for livestock to graze on grazing marshes and shall—

(a) ensure that there is at least 30 centimetres of water in the bottom of dykes between 31st October in each year and the following 1st March, and

(b) begin to increase dyke water levels to summer levels no later than 1st March in any year;

(4) The farmer shall maintain hedges, ponds and reedbeds;

(5) The farmer shall not damage or destroy any feature of historic interest;

(6) The farmer shall obtain written advice on siting and materials from the Minister before constructing buildings or roads or before undertaking any other engineering or construction operations which do not require prior notification determination by the local planning authority under the Town and Country Planning General Development Order 1988(5), or planning permission;

(7) The farmer shall obtain written advice from the person approved by the Minister on the management of woodland or scrub and on proposals to plant new woodland.

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(5) S.I.1988/1813. The relevant amending instrument is S.I.1991/2268.

## SCHEDULE 2

Article 6(2)

### ADDITIONAL PROVISIONS—I

As regards any grassland which is the subject of an agreement—

1. The farmer shall ensure that water is maintained on the grazing marshes at not more than 45 centimetres below marsh level between 31st March and 1st November in any year, and shall provide a minimum of 60 centimetres of water in the bottom of dykes between 30th November in any year and the following 1st March and shall begin to raise water levels to their summer maximum no later than 1st March in any year.

2. The farmer shall not carry out any mechanical operations between 31st March and 16th July in any year.

3. The farmer shall not graze with livestock between 31st October in any year and the following 1st April.

4. The farmer shall not cut for silage.

The farmer shall not cut for hay before 16th July in any year.

5. The farmer shall not increase his existing application rates of fertiliser containing nitrogen and shall not in any event apply more than 44 kilogrammes per hectare per year.

The farmer shall not apply phosphate or potash.

6. The farmer shall not apply any organic manure.

7. The farmer shall not apply lime, slag or any other substance designed to reduce the acidity of the soil.

8. The farmer shall, within two years from the commencement of the agreement agree with the Minister a plan of dyke maintenance and shall implement that plan.

9. The farmer shall maintain existing foot drains and grips but shall not dig new foot drains or grips.

## SCHEDULE 3

Article 6(2)

### ADDITIONAL PROVISIONS—II

As regards any land which is the subject of an agreement—

1. The farmer shall ensure that water is maintained at marsh level between 1st January and 30th April in any year so as to create shallow pools. The farmer shall maintain dyke levels at not more than 45 centimetres below marsh level between 1st June and 31st October in any year and shall begin to raise the water level to winter level no later than 1st November in any year.

2. The farmer shall not apply any organic or inorganic fertiliser.

3. The farmer shall not graze with livestock between 1st November in any year and the following 15th May.

4. The farmer shall graze the land with livestock between 16th May and 31st October in any year but not so as to cause poaching, overgrazing or undergrazing.

5. The farmer shall not exceed a grazing density of one bovine animal per 0.75 hectares between 16th May and 30th June in any year.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## SCHEDULE 4

Article 6(2)

### ADDITIONAL PROVISIONS—III

#### **Option 1—Permanent Grassland Reversion**

1. As regards any land which is the subject of an agreement and which is suitable for reversion to permanent grassland which on 31st August 1991 was in arable cropping or had been in ley management for less than five years as part of an arable rotation—

(1) Within twelve months of the commencement of the agreement, the farmer shall cease arable production and shall establish a grass sward;

(2) During a period of twelve months from the start of the agreement, the farmer shall not apply—

(a) organic or inorganic fertiliser,

(b) lime, slag or any other substance designed to reduce the acidity of the soil,

(c) pesticides

without obtaining the Minister's prior approval.

2. The farmer shall observe the requirements of Schedule 1, paragraph 2 from the start of the agreement and the remaining provisions of that Schedule after the expiry of the twelve month period referred to in paragraph 1(2).

#### **Option 2—Grassland Margins**

3. As regards any strip which is the subject of an agreement—

(1) Within twelve months of the commencement of the agreement the farmer shall cease arable production on the strip and shall establish a grass sward;

(2) The farmer shall cut the strip twice annually after 30th June and shall remove the cuttings;

(3) The farmer shall not apply to the strip—

(a) organic or inorganic fertiliser,

(b) lime, slag or any other substance designed to reduce the acidity of the soil,

(c) fungicides and insecticides;

(4) Subject to subparagraph (5), the farmer shall not apply herbicides to the strip except to control nettles, 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;

(5) The farmer may cultivate and apply herbicides to that part of the strip which adjoins land in cultivation where it is desirable so to do in order to maintain a sterile area;

(6) The farmer shall not damage the strip.

## SCHEDULE 5

Article 6(3)

### CONSERVATION PLAN OPERATIONS

1. The creation or restoration of scrapes and dykes.

2. The restoration of fen areas including the creation and restoration of reed and sedge beds, marsh hay and litter marshes, and the control of scrub.

3. The construction of water level penning structures such as bunds, sluices, culverts and other works to control water levels.
4. The replacement of metal field gates with wooden gates.
5. The provision of liggers.
6. The creation or re-creation of herb-rich meadows.
7. The creation or restoration of ponds.
8. The planting, laying or coppicing of hedges.
9. Works to protect historic and archaeological features.
10. Works designed to restore or create landscape features or features for the benefit of wildlife in a manner compatible with the enhancement of the environment.

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## 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 VII of Council Regulation (EEC)2328/91 (OJ No.L218, 6.8.91, p.1) on improving the efficiency of agricultural structures, designates an area in the Broads as an environmentally sensitive area (article 3). The previous designation of an environmentally sensitive area in the Broads is revoked, though with savings provisions (article 7). The newly designated 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 Nobel House, 17 Smith Square, London SW1P 3HX.

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 thereby be facilitated. 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). The rates of payment to be made by the Minister under an agreement are set out (article 6) including the rates applicable to an agreement which contains additional provisions designed to attract higher rates of payment. These additional provisions are set out in Schedules 2, 3, 4 and 5.