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STATUTORY INSTRUMENTS

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**1993 No. 455**

**AGRICULTURE**

**The Environmentally Sensitive Areas  
(Breckland) Designation Order 1993**

<i>Made</i>	- - - -	<i>4th March 1993</i>
<i>Laid before Parliament</i>		<i>5th March 1993</i>
<i>Coming into force</i>	- -	<i>27th March 1993</i>

Whereas, as mentioned in section 18(1) of the Agriculture Act(1), 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 or adoption of the agricultural methods specified in the Schedules 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(2) 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 (Breckland) Designation Order 1993 and shall come into force on 27th March 1993.

**Interpretation**

2.—(1) In this Order

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

(2) 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;

“heathland” means sandy or chalky land which is free draining and covered by semi-natural vegetation;

“river valley grassland” means land on which the vegetation consists primarily of grass species and on which the soil is not predominantly free-draining;

“woodland” means land used for woodland where that use is ancillary to the farming of land for other agricultural purposes.

(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 Breckland in the Counties of Suffolk, Norfolk and Cambridgeshire which is shown coloured yellow on the maps contained in the volume of maps marked “volume of maps of Breckland environmentally sensitive area”, dated 3rd March 1993, 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 as to agricultural practices, methods and operations and the installation and use of equipment specified in Schedule 6 and in one of the Schedules numbered 1 to 5 inclusive.

### **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 the 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 for land to which the agreement relates at the rate per annum for each hectare of that land shown in the following table—

	£ per hectare of land per annum
Schedule 1	100

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(3) 1950 c. 27.

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	£ per hectare of land per annum
Schedule 2	300
Schedule 3	125
Schedule 4	350
Schedule 5	110

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6.—(2) Where an agreement includes one or more of the conservation plan operations specified in Schedule 7, the Minister shall also make payments in respect of the aggregate of the operations included in the agreement 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 (Breckland) Designation Order 1987(4) is hereby revoked, except that the provisions of that Order shall continue to apply to agreements made in relation to it on or before 28th February 1993.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 3rd March 1993.

L.S.

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

We consent

*Tim Wood*  
*Irvine Patnick*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

4th March 1993

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## SCHEDULE 1

Article 4

### REQUIREMENTS RELATING TO HEATHLAND

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

- (1) the farmer shall maintain heathland vegetation and shall not plough, level, reseed, cultivate, roll, chain harrow or carry out mechanical operations;
- (2) the farmer shall ensure that the sward is hard grazed but shall not graze it with pigs or poultry;
- (3) the farmer shall not irrigate;
- (4) the farmer shall not apply organic or inorganic fertiliser;
- (5) the farmer shall not apply lime, slag or any other substance designed to reduce the acidity of the soil;
- (6) the farmer shall not use fungicides or insecticides;
- (7) the farmer shall not apply herbicides except to control nettles, spear thistle, creeping or field thistle, curled dock, broadleaved dock, ragwort or bracken or for stump treatment of cleared scrub. The farmer shall control infestations of these weeds by means of cutting or by the use of herbicides. Herbicides used for these purposes shall be applied by wick applicator or spot treatment. In the case of bracken, control shall be by means of asulam where it cannot be controlled by mechanical means;
- (8) the farmer shall carry out any necessary bracken or scrub control in accordance with a programme agreed in writing in advance with the Minister;
- (9) the farmer shall restrict supplementary feeding of livestock (including mineral licks) to areas agreed in advance with the Minister;
- (10) the farmer shall identify sites favoured by ground nesting birds and shall agree with the Minister a stock management programme in advance of the breeding season.

## SCHEDULE 2

Article 4

### REQUIREMENTS RELATING TO LAND WHICH IS TO REVERT TO HEATHLAND

As regards any land which is the subject of an agreement, which is suitable for reversion to heathland and which has been under improved grassland management or continuously used in rotation for arable cropping—

- (1) the farmer shall cease grassland production, or arable production, immediately after harvesting any crop already in the ground;
- (2) within twelve months of the start of the agreement, the farmer shall agree in writing with the Minister a programme for reversion of the land to heathland and shall begin to carry it out;
- (3) when the programme described in subparagraph (2) above has been completed, the farmer shall observe the requirements of Schedule 1 in relation to the land.

## SCHEDULE 3

Article 4

### REQUIREMENTS RELATING TO RIVER VALLEY GRASSLAND

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

(1) the farmer shall maintain wet grassland and shall not plough, level, reseed or cultivate. He shall not use a chain harrow or roller between 31st March and 1st July in any year (but may do so at other times);

(2) the farmer shall graze with livestock, excluding pigs or poultry, but not so as to cause poaching, undergrazing or overgrazing;

(3) the farmer shall not cut the grass before 1st July in any year;

(4) the farmer shall not apply any inorganic fertilisers or any sewage sludge, slurry, pig or poultry manure;

(5) the farmer shall not increase his existing application rate of farmyard manure and in any event shall not apply more than 12.5 tonnes per hectare in any three year period. He shall not apply organic fertiliser within 50 metres of any spring, well or borehole supplying water for human consumption or within 10 metres of any watercourse;

(6) the farmer shall not apply herbicides except to control nettles, spear thistle, creeping or field thistle, curled dock, broadleaved dock or ragwort. The farmer shall control infestations of these weeds by means of cutting or by the use of herbicides. Herbicides used for these purposes shall be applied by wick applicator or spot treatment;

(7) the farmer shall not use fungicides or insecticides;

(8) the farmer shall not apply lime, slag or any other substance designed to reduce the acidity of the soil;

(9) the farmer shall not install under-drainage or mole drainage and shall not use a subsoiler. He shall not modify any existing drainage system so as to bring about improved drainage;

(10) where the farmer has control over ditch water levels, he shall maintain those levels and in any event shall ensure that ditches do not dry out; (11) the farmer shall restrict supplementary feeding (including mineral licks) to areas agreed in advance with the Minister.

#### SCHEDULE 4

Article 4

##### REQUIREMENTS RELATING TO UNCROPPED WILDLIFE STRIPS

As regards any land which is the subject of an agreement and which has been used in rotation for arable cropping since 31st August 1992 or which was subject to requirements relating to uncropped wildlife strips under a previous agreement—

(1) the farmer shall cease production on a strip of land either 6 metres wide or 12 metres wide at the edge of a field used for arable cropping or, in the case of a strip of land subject to a previous agreement, shall not restart production on the strip;

(2) the farmer shall cultivate the strip so as to create a seed bed not more than once a year, but not less than once every two years, between 31st July in any year and the following 31st March;

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

(a) any organic or inorganic fertiliser;

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

(c) fungicides or insecticides;

(d) herbicides, except to control nettles, spear thistle, creeping or field thistle, curled dock, broadleaved dock or ragwort. The farmer shall control infestations of these weeds by means of cutting or by the use of herbicides and shall apply herbicides used for these purposes by wick applicator or spot treatment;

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(4) the farmer shall control sterile brome by mechanical means or by chemical means where a programme of chemical control has been agreed in advance in writing with the Minister;

(5) the farmer shall ensure that the strip is not materially damaged by the passage of machinery or by other means, and shall not use it as a means of access;

(6) the farmer shall not sow grass or other seed on the strip;

(7) the farmer shall not irrigate the strip;

(8) notwithstanding subparagraphs (2) and 3(d) above, the farmer may regularly cultivate and apply herbicides to any part of the strip which is situated not more than one metre from the edge of the area of the field used for arable cropping

## SCHEDULE 5

Article 4

### REQUIREMENTS RELATING TO CONSERVATION HEADLANDS

As regards any land which is the subject of an agreement and which has been continuously used in rotation for arable cropping since 31st August 1992, the farmer shall observe the following requirements in regard to a strip of land either 6 metres wide or 12 metres wide located at the edge of a field—

(1) the farmer shall not apply insecticides except between 31st August in any year and the following 15th March;

(2) the farmer shall not apply herbicides other than—

(a) Tri-allate, diclofop-methyl, difenzoquat, flamprop-m-isopropyl or fenoxaprop-ethyl;

(b) Glyphosate, provided that it is applied only in the preor post-harvest period;

(c) Fluroxypyr, provided it is applied by spot treatment and solely for the control of cleavers;  
or

(d) any other herbicide applied by any method which the Minister may from time to time approve.

## SCHEDULE 6

Article 4

### SUPPLEMENTARY REQUIREMENTS

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

(1) the farmer shall maintain hedges and hedgerow trees using traditional methods;

(2) the farmer shall maintain ponds, reedbeds and sedgebeds;

(3) the farmer shall maintain ditches in rotation by mechanical means. The farmer shall dry and level spoil and shall not use it to fill depressions;

(4) the farmer shall not damage or destroy any feature of historic or archaeological interest and shall obtain written advice from a person approved by the Minister on the management of any such features;

(5) the farmer shall not destroy any feature of geomorphological interest;

(6) the farmer shall dispose of sheep dip safely and shall not spread it where it may affect areas of nature conservation value;

(7) within two years of the start of the agreement, the farmer shall obtain written advice from a person approved by the Minister on the management of any woodland, pine belts and lines, copses and trees and on any proposals to plant new woodland, unless such advice has already been obtained under a previous agreement in respect of the same land;

(8) the farmer shall obtain written advice on siting and materials from the Minister before constructing buildings or roads or 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.

## SCHEDULE 7

Article 6(2)

### CONSERVATION PLAN OPERATIONS

1. The provision of water supplies and fencing where necessary to facilitate the reintroduction of livestock for grazing.
2. The management of scrub.
3. Works designed for the supplementary treatment of heathland or reverted heathland, including soil disturbance, the introduction of *Calluna* species and heather management.
4. The restoration of ponds and pingos.
5. The restoration of reedbeds and sedgebeds.
6. The control of bracken.
7. The provision of feeding areas in sites located away from heathland.
8. The planting or coppicing of hedges.
9. The construction of water penning structures.
10. The restoration of pine belts and lines.
11. The provision of rabbit-proof fencing.
12. Works to protect historic or archaeological features.

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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.

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(5) [S.I. 1988/1813](#). The relevant amending instrument is [S.I. 1991/2805](#).

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This Order complies with Council Regulation (EEC) 2328/91 (OJNo. L218, 6.8.91, p. 1) on improving the efficiency of agricultural structures and forms part of the scheme designed to implement Council Regulation (EEC) 2078/92 (OJ No. L215, 30.7.92, p. 85). It designates an area in Breckland as an environmentally sensitive area (article 3). The previous designation of an environmentally sensitive area in Breckland 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 Schedules 1 to 6).

A management agreement must contain the requirements specified in Schedule 6, in addition to the requirements laid down in at least one of Schedules 1 to 6 (article 4). The rates of payment to be made by the Minister under an agreement, which are established by reference to the farming income foregone in abiding by an agreement, are set out (article 6). The agreement may also provide for the voluntary observance of further Schedules, including Schedule 7, in which case additional payments will be made.

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).