
STATUTORY INSTRUMENTS

1993 No. 458

AGRICULTURE

The Environmentally Sensitive Areas (Suffolk River Valleys) 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 1986⁽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 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⁽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 (Suffolk River Valleys) Designation Order 1993 and shall come into force on 27th March 1993.

Interpretation

2.—(1) In this Order—

⁽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;

“grassland” means land on which the vegetation consists primarily of grass species and includes meadowland, pasture and rough grazing;

“permanent grassland” means grassland which has not been ploughed or reseeded for at least five years;

“reverted grassland” means grassland established pursuant to the provisions of an agreement on land previously used for arable cropping;

“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 the Suffolk River Valleys in the Counties of Suffolk and Essex which is shown coloured yellow on the maps contained in the volume of maps marked “volume of maps of Suffolk River Valleys 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 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 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) Subject to paragraph (2) below, the Minister shall make payments under an agreement for land to which the agreement relates at the rate of £70 per annum for each hectare of permanent grassland and £220 per annum for each hectare of reverted grassland.

(2) Where an agreement includes the additional provisions specified in Schedule 2, 3 or 4 in relation to any land, the Minister shall make payments at the rate per annum for each hectare of that land shown in the following table—

| | £ per hectare of land per annum |
|-----------------------|---------------------------------|
| Schedule 2 | 180 |
| — permanent grassland | |
| — reverted grassland | 260 |
| Schedule 3 | 30 |
| Schedule 4 | 220 |

(3) Where an agreement includes the additional provisions specified in Schedule 5, the Minister shall also make payments at the rate of £8 per annum for each hectare of land which is subject to the agreement.

(4) Where an agreement includes one or more of the conservation plan operations specified in Schedule 6, 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 (Suffolk River Valleys) 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

L.S.

3rd March 1993.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

We consent,

4th March 1993

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

(4) [S.I. 1987/2033](#), amended by [S.I. 1988/1645](#).

SCHEDULE 1

Article 4

REQUIREMENTS TO BE INCLUDED IN AGREEMENT

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

(1) the farmer shall maintain grassland and shall not plough, level or re-seed. The farmer shall not cultivate except by chain harrow or roller;

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

(3) where the farmer cuts grass for hay or silage, he shall graze the aftermath with livestock;

(4) the farmer shall not increase existing application rates of inorganic or organic fertiliser and in any event shall not apply more than 250 kilogrammes of nitrogen per hectare per year. 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;

(5) the farmer shall not apply fungicides or insecticides;

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

(7) within two years from the start of the agreement, the farmer shall obtain from a person approved by the Minister written advice on the management of any woodland, scrub and reedbeds, unless such advice was obtained under a previous agreement in respect of the same land;

(8) the farmer shall maintain banks, pollarded willows and other trees, ponds and reedbeds using traditional methods;

(9) the farmer shall maintain hedges using traditional methods, including stockproof hedges, which shall be kept in a stockproof condition;

(10) the farmer shall not install underdrainage or mole drainage or use a sub-soiler. The farmer shall not modify any existing drainage system so as to bring about improved drainage;

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

(12) 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;

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

(14) 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.

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

SCHEDULE 2

Article 6(2)

ADDITIONAL PROVISIONS—I (LOW INPUT GRASSLAND)

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

- (1) where land is on the flood plain or is naturally wet, the farmer shall—
 - (a) ensure that the water level in dykes and ditches is not more than 45 centimetres below marsh level between 31st March and 31st October in any year;
 - (b) ensure that the depth of water in dykes and ditches is not less than 30 centimetres between 31st October in any year and the following 1st March; and
 - (c) begin to raise water levels no later than 1st March in any year;
- (2) the farmer shall not carry out mechanical operations between 1st April and 16th July in any year;
- (3) the farmer shall not graze land which lies on the flood plain or which is naturally wet with livestock between 1st April and 15th May in any year;
- (4) the farmer shall not top the sward or cut for hay or silage before 16th July in any year;
- (5) the farmer shall not apply any organic or inorganic fertiliser except farmyard manure produced on his own farm. He shall not apply slurry, pig or poultry manure or sewage sludge. He shall not increase his existing application rate of farmyard manure and in any event shall not apply more than 12.5 tonnes per hectare per year. He shall not make any applications of manure between 1st April and 16th July in any year and outside this period shall apply it only in a single dressing;
- (6) the farmer shall not apply lime, slag or any substance designed to reduce the acidity of the soil;
- (7) the farmer shall restrict supplementary feeding of livestock to areas agreed in advance with the Minister;
- (8) within two years from the start of the agreement, the farmer shall agree in writing with the Minister a plan for ditch and dyke maintenance and shall begin to implement it.

SCHEDULE 3

Article 6(2)

ADDITIONAL PROVISIONS—II (MAINTENANCE OF WATER LEVELS)

As regards any grassland which is the subject of an agreement which includes the provisions of Schedule 2—

- (1) the farmer shall begin to raise water levels to their winter level no later than 1st November in any year and shall maintain water levels at marsh level so as to create surface wetness and occasional shallow pools between 1st January and 30th April in any year;
- (2) the farmer shall not graze with livestock between 1st November in any year and the following 15th May.

SCHEDULE 4

Article 6(2)

ADDITIONAL PROVISIONS—III (REVERSION TO GRASSLAND)

As regards any land which is the subject of an agreement which, on 31st August 1992, was in arable cropping or had been in ley management for less than five years as part of an arable rotation—

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

(1) the farmer shall cease arable production and shall establish a grassland sward within twelve months of the start of the agreement;

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

(a) any organic or inorganic fertiliser;

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

(c) any pesticide

without obtaining the Minister's prior written approval;

(3) the farmer shall observe the provisions of Schedule 1 subparagraphs (8) to (14) inclusive from the start of the agreement. After the expiry of the twelve-month period referred to in subparagraph (1) and (2) above, he shall also observe the remaining provisions of Schedule 1, except that, notwithstanding the provisions of subparagraph (4) of that Schedule, he shall not apply more than 125 kilogrammes of nitrogen per hectare per year and shall not use more than 90 kilogrammes per hectare in any one application.

SCHEDULE 5

Article 6(3)

ADDITIONAL PROVISIONS—IV (HEDGEROW MANAGEMENT)

As regards any non-stockproof hedges which are suitable to be made stockproof and which are the subject of an agreement, the farmer shall carry out a programme agreed in writing in advance with the Minister to restore to a stockproof condition a minimum of 2 metres of such hedges per hectare of land subject to the agreement per annum. In implementing the programme he shall use traditional methods and materials.

SCHEDULE 6

Article 6(4)

CONSERVATION PLAN OPERATIONS

1. The planting, laying or coppicing of hedges, other than hedges subject to the provisions of Schedule 5.

2. The provision of water penning structures.

3. The restoration of ponds, ditches and dykes.

4. The restoration of reedbeds or sedgebeds.

5. The provision of water supplies and fencing where necessary to facilitate the reintroduction of livestock for grazing.

6. The management of scrub.

7. The control of bracken.

8. The creation or improvement of herb-rich meadows.

9. Works to protect historic or archaeological features.

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 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) on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside. It designates an area known as the Suffolk River Valleys as an environmentally sensitive area (article 3). The previous designation of an environmentally sensitive area in the Suffolk River Valleys 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 established by reference to the farming income foregone in abiding by an agreement; they are set out in the Order and include rates payable under an agreement which contains additional provisions (article 6). These additional provisions are set out in Schedules, 2, 3, 4, 5 and 6.