
STATUTORY INSTRUMENTS

1993 No. 459

AGRICULTURE

**The Environmentally Sensitive Areas
(Test Valley) 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 (Test Valley) 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.

“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;

“livestock unit” means—

- (a) 1 bovine animal more than two years old, or
- (b) 1.66 bovine animals from six months old to two years old inclusive, or
- (c) 6.66 sheep;

“unimproved permanent grassland” means grassland which has not been regularly ploughed, levelled, drained or reseeded, or treated with fertiliser, lime, slag, herbicides or pesticides for at least five years;

“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 Test Valley in the County of Hampshire which is shown coloured yellow on the maps contained in the volume of maps marked “volume of maps of Test Valley 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 forth-with 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 payment under an agreement for land to which the agreement relates at the rate of £10 per annum for each hectare of improved permanent grassland and £105 per annum for each hectare of unimproved permanent grassland.

(2) Where an agreement includes the additional provisions specified in Schedule 2 in relation to any land, the Minister shall make payments at the rate of £240 per annum for each hectare of that land.

(3) Where an agreement includes one or more of the conservation plan operations specified in Schedule 3, 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 £3000 per agreement.

Revocation and saving

7. The Environmentally Sensitive Areas (Test Valley) 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. 1987/2034](#), amended by [S.I. 1988/174](#).

SCHEDULE 1

Article 4

REQUIREMENTS TO BE INCLUDED IN AGREEMENT

1. As regards any improved permanent grassland which is the subject of an agreement—
 - (1) the farmer shall maintain such grassland and shall not plough, level or re-seed. The farmer shall cultivate only with a chain harrow or roller;
 - (2) the farmer shall graze the aftermath of grass cut for hay or silage with livestock;
 - (3) the farmer shall graze with cattle or sheep or both (or with other animals by agreement with the Minister), but not so as to cause poaching, overgrazing or undergrazing;
 - (4) the farmer shall not increase existing application rates of organic or inorganic 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.
2. As regards any unimproved permanent grassland which is the subject of an agreement—
 - (1) the farmer shall not use a chain harrow or roller between 31st March and 1st July in any year;
 - (2) the farmer shall not exceed a stocking level of 0.75 livestock units per hectare between 31st March and 1st June in any year;
 - (3) the farmer shall not top or cut the grass for hay or silage before 1st July in any year and, when cutting for silage, shall wilt and turn the grass before removal;
 - (4) the farmer shall not apply inorganic or organic fertiliser except farmyard manure produced on his own farm. He shall not apply slurry, pig or poultry manure. He shall not increase existing application rates of farmyard manure and in any event shall not apply more than 12.5 tonnes per hectare per year. He shall not make applications of manure between 1st April and 31st May in any year and outside this period shall apply it only in a single dressing;
 - (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 or ragwort, or for stump treatment of cleared scrub. Herbicides used for these purposes shall be applied by wick applicator or spot treatment;
 - (7) the farmer shall not apply lime, slag or any other substance designed to reduce the acidity of the soil.
3. As regards any broadleaved woodland which is the subject of an agreement, 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 broadleaved woodland (including copses, sallow thickets, alder carr, groups of trees and scrub), unless he has obtained such advice under a previous agreement relating to the same land.
4. As regards all land which is the subject of an agreement—
 - (1) the farmer shall restrict supplementary feeding of livestock to areas agreed in advance with the Minister;
 - (2) the farmer shall dispose of sheep dip safely and shall not spread it where it may affect areas of nature conservation value;
 - (3) the farmer shall not use a sub-soiler or install any new field drainage system or modify any existing system so as to bring about improved drainage;
 - (4) the farmer shall maintain watercourses and ditches in rotation by mechanical means and shall dry and level spoil. The farmer shall not fill in watercourses and ditches;

(5) the farmer shall retain and manage hedges and trees (including pollarded willows) using traditional methods;

(6) the farmer shall maintain stockproof hedges in a stockproof condition using traditional methods;

(7) the farmer shall maintain ponds, lakes, pools, sedgebeds and reedbeds in rotation in accordance with written advice on the management of these features obtained from a person designated by the Minister within two years from the start of the agreement;

(8) the farmer shall not damage or destroy any feature of historic or archaeological interest;

(9) the farmer shall obtain from the Minister written advice concerning siting and materials before constructing buildings or roads or carrying out other engineering or construction operations which do not require prior notification determination under the Town and Country Planning General Development Order 1988(5), or planning permission.

SCHEDULE 2

Article 6(2)

ADDITIONAL PROVISIONS (ARABLE REVERSION)

As regards any land which is the subject of an agreement which is suitable for reversion to permanent grassland and 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—

(1) the farmer shall cease arable production or ley management and establish a grassland sward within twelve months of the start of the agreement using grass species approved by the Minister;

(2) during a 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 other substance designed to reduce the acidity of the soil;

(c) any fungicide, insecticide or herbicide,

without obtaining the Minister's prior approval;

(3) the farmer shall cut the grassland sward referred to in subparagraph (1) above during each of the first three years following its establishment, remove the cuttings as hay and graze the aftermath with livestock. He shall not cut the sward before 1st July in any year;

(4) in addition to observing the requirements of Schedule 1 paragraph 4 above from the start of the agreement, after the expiry of the twelve month period referred to in subparagraph (1) above, he shall observe the requirements of Schedule 1 paragraphs 1 and 2.

SCHEDULE 3

Article 6(3)

CONSERVATION PLAN OPERATIONS

1. The planting, laying, gapping or coppicing of hedges.
2. The restoration of ponds, pools or lakes.
3. The management of scrub or small groups of trees.
4. The renovation of traditional farm buildings using traditional methods and materials.

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

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

5. The restoration of reedbeds including sedgebeds.
6. The provision of water supplies and fencing where necessary for the reintroduction of grazing.
7. The provision of fencing to protect wildlife interest in and around ditches.
8. Works to protect historic and 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 in the Test Valley as an environmentally sensitive area (article 3). The previous designation of an environmentally sensitive area in the Test Valley 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 and 3.