
STATUTORY INSTRUMENTS

1994 No. 711

AGRICULTURE

**The Environmentally Sensitive Areas
(Essex Coast) Designation Order 1994**

<i>Made</i>	- - - -	<i>3rd March 1994</i>
<i>Laid before Parliament</i>		<i>16th March 1994</i>
<i>Coming into force</i>	- -	<i>6th April 1994</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 her by section 18(1) and (4) of the said Act, and of all other powers enabling her 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 the following 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 (Essex Coast) Designation Order 1994 and shall come into force on 6th April 1994.

Interpretation

2.—(1) In this Order—

⁽¹⁾ 1986 c. 49. The expression “the Minister” is defined in section 18(11). Section 18(4) was amended by S.I. 1994/249.
⁽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).

“access route” means a strip of land 10 metres wide which is the subject of an agreement including the requirements specified in Schedule 4 as to public access;

“agreement” means an agreement under section 18(3) of the Agriculture Act 1986 as respects agricultural land in the area designated by article 3;

“conservation plan” means a plan for the carrying out of one or more of the operations specified in Schedule 5 which the farmer undertakes, as part of an agreement, to implement within a period of two years;

“farmer” means a person who has an interest in agricultural land in the area designated by article 3 and who has entered into an agreement with the Minister;

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

“livestock unit” means—

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

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

“recognised dairy breed” means one of the following breeds, namely, Ayrshire, British Friesian, British Holstein, Dairy Shorthorn, Guernsey, Jersey and Kerry.

(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 on the Essex Coast in the County of Essex which is shown coloured yellow on the maps contained in the volume of maps marked “volume of maps of the Essex Coast environmentally sensitive area” dated 3rd March 1994, signed and sealed by the Minister and deposited at the offices of the Ministry of Agriculture, Fisheries and Food, 17 Smith Square, London SW1P 3JR.

Requirements included in an 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.

5. An agreement may also include the requirements as to public access specified in Schedule 2 to this Order.

Breach of requirements

6. An agreement shall include provisions that—

- (a) in the event of a breach by the farmer of the requirements referred to in article 4 which are included in the agreement, 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

7.—(1) The Minister shall make payments under an agreement at a rate of £70 per annum per hectare of permanent grassland to which the agreement relates, unless a higher rate is applicable in accordance with paragraph (3) below.

(2) Where an agreement includes the requirements as to public access specified in Schedule 2 the Minister shall make payments at the rate of £170 per annum for each hectare of access route.

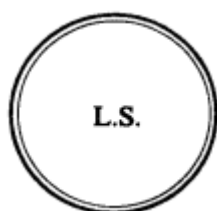
(3) Where an agreement includes the additional provisions specified in any of the options in Schedule 3 in relation to any permanent grassland, the Minister shall make payments at the rate per annum for each hectare of that land shown in the following table—

	per hectare of land per annum
Schedule 3	
option 1	£180
option 2	£210

(4) Where an agreement includes the additional provisions specified in Schedule 4 in relation to any land the Minister shall make payments at a rate of £220 per annum for each hectare of that land.

(5) Where an agreement includes a conservation plan, the Minister shall also make payments in respect of the aggregate of the operations included in the plan 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 for each such plan.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 3rd March 1994.



Gillian Shephard
Minister of Agriculture, Fisheries and Food

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

We consent,

3rd March 1994

Timothy Wood
Nicholas Baker
Two of the Lords Commissioners of Her
Majesty's Treasury

SCHEDULE 1

Articles 4 and 7(1)

REQUIREMENTS TO BE INCLUDED IN AGREEMENT

As regards all permanent grassland which is the subject of an agreement—

(1) the farmer shall maintain permanent grassland and shall not plough, level or reseed. The farmer shall not cultivate except by means of 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 or he shall cut the grass and remove the cuttings;

(3) the farmer shall wilt and turn any grass cut for silage before removal;

(4) the farmer shall not increase existing application rates of inorganic fertiliser and shall not apply more than 90kg of nitrogen per hectare in any application;

(5) the farmer shall not increase existing application rates of organic fertiliser and, in any event, shall not apply more than 30 tonnes per hectare per year. He shall not apply slurry, pig or poultry manure or sewage sludge. He shall not apply any organic fertiliser within 50 metres of a spring, well or borehole that supplies water for human consumption or within 10 metres of a watercourse;

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

(7) the farmer shall not apply any fungicides or insecticides;

(8) the farmer shall control infestations of stinging nettles, spear thistle, creeping or field thistle, curled dock, broadleaved dock or ragwort by mechanical means or herbicides and shall apply herbicides used for these purposes by wick applicator or by spot treatment. He shall not apply herbicides for any other purposes;

(9) the farmer shall not install any new land drainage system or modify any existing land drainage system so as to bring about improved drainage;

(10) the farmer shall maintain ditches and dykes (including margins and banks) for which he is responsible in rotation by mechanical means. He shall dry spoil and spread it adjacent to the ditch or dyke;

(11) the farmer shall not fill in existing natural depressions or low areas;

(12) the farmer shall retain and manage hedges, ponds and reedbeds as well as individual trees and groups of trees for which he is responsible. He shall not apply pesticides or fertiliser on land within 1 metre of any hedge;

(13) the farmer shall obtain from a person approved by the Minister written advice on the management of woodland and scrub and on any proposals to plant new woodland;

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

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

(16) the farmer shall obtain from a person approved by the Minister written advice on the agricultural management of known archaeological and historic features;

(17) the farmer shall obtain from the Minister written advice on siting, design and materials before constructing buildings or roads or before carrying out any other engineering or construction works which do not require prior notification determination by the local planning authority under the Town and Country Planning General Development Order 1988(4), or planning permission.

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

SCHEDULE 2

Articles 5 and 7(2)

REQUIREMENTS AS TO PUBLIC ACCESS

As regards any access route which is the subject of an access agreement—

- (1) the farmer shall make the access route available for public access at no charge;
- (2) the farmer shall maintain free passage over the access route;
- (3) the farmer shall not erect new fences on or adjacent to the access route without the prior written approval of the Minister;
- (4) the farmer shall keep the access route and fields crossed by it free of litter and other refuse;
- (5) the farmer shall exclude bulls from the access route and fields crossed by it, except for any bull which
 - (a) does not exceed the age of 10 months, or
 - (b) which is not of a recognised dairy breed and is at large in any field or enclosure in which cows and heifers are also at large;
- (6) the farmer shall provide and maintain adequate means of entry to the access route;
- (7) the farmer shall affix and maintain appropriate signboards and waymarking;
- (8) the farmer shall not permit any of the following activities on the access route or on fields crossed by it: camping, caravanning, lighting of fires, organised games or sports, riding of motor vehicles (except for those used for agricultural operations on the land), without the Minister's prior written approval;
- (9) the farmer shall agree with the Minister in writing in advance whether the riding of horses or cycles shall be permitted on the access route, and shall not permit such activities other than to the extent so agreed;
- (10) the farmer shall not close the access route to the public other than for a specified number of days, to be agreed with the Minister in writing and in advance. Where such a prior agreement is reached, the farmer may close the access route for the number of days so specified, provided that signs giving notice of the intended closure and the reasons for it are posted at each entry point to the access route at least two weeks in advance of the date of closure;
- (11) the farmer shall agree with the Minister in writing in advance public liability insurance cover and shall maintain it for the duration of the agreement.

SCHEDULE 3

Article 7(3)

ADDITIONAL PROVISIONS—I (PERMANENT GRASSLAND)

Permanent grassland—Option 1

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

- (1) the farmer shall ensure that water levels in the ditches and dykes—
 - (a) provide at least 30cm of water in the bottom from 1st August in any year until the following 28th February inclusive,
 - (b) begin rising no later than 1st March in any year,
 - (c) are maintained at not more than 45cm below mean field level from 1st April until 31st July inclusive in any year and for as long as possible thereafter;

(2) the farmer shall not carry out any mechanical operations on the land from 1st April until 15th July inclusive in any year;

(3) the farmer shall graze with cattle or sheep or both, or with horses in conjunction with cattle or sheep or both, but not so as to cause poaching, overgrazing or undergrazing. He shall not exceed a stocking level of 0.75 livestock units per hectare from 1st April until 15th May inclusive in any year;

(4) the farmer shall not top the grass or cut it for hay or silage before 16th July in any year;

(5) the farmer shall restrict supplementary feeding of livestock to areas agreed in writing in advance with the Minister;

(6) the farmer shall not increase existing application rates of inorganic fertiliser and in any case shall not apply more than 50kg nitrogen per hectare per year;

(7) the farmer shall not apply any organic fertiliser other than farmyard manure. He shall not increase existing application rates and in any case shall not apply more than 12.5 tonnes of farmyard manure per hectare per year. Where the farmer applies farmyard manure, it shall be applied in a single dressing and shall not be applied from 1st April until 15th July inclusive in any year;

(8) within two years of the start of the agreement the farmer shall agree in writing with the Minister a programme for the management of ditches and dykes for which he is responsible.

Permanent grassland—Option 2

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

(1) the farmer shall ensure that water levels in ditches and dykes are maintained at not more than 45cm below mean field level and shall create conditions of field wetness and surface splashing from 1st January until 30th April inclusive in any year;

(2) the farmer shall not carry out any mechanical operations on the land from 1st January until 15th July inclusive in any year;

(3) the farmer shall graze with cattle or sheep or both but not so as to cause poaching, overgrazing or undergrazing. He shall remove all cattle from 1st November in any year until the following 15th May inclusive;

(4) the farmer shall not top the grass or cut it for hay or silage before 16th July in any year;

(5) the farmer shall restrict supplementary feeding of livestock to areas agreed in writing in advance with the Minister;

(6) the farmer shall not apply any organic or inorganic fertiliser;

(7) within two years of the start of the agreement, the farmer shall agree in writing with the Minister a programme for the management of ditches and dykes for which he is responsible.

SCHEDULE 4

Article 7(4)

ADDITIONAL PROVISIONS—II (REVERSION OF ARABLE LAND TO PERMANENT GRASSLAND)

As regards any land which is the subject of an agreement, which is suitable for reversion from arable land to permanent grassland and which on 31st December 1993 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 grassland production and shall establish a permanent grassland sward within 7 months of the start of the agreement using seed from grass species approved by the Minister;

(2) during the 7 month period referred to in paragraph (1)

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above, 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; or
- (c) any fungicide, insecticide or herbicide

without obtaining the Minister's prior written approval;

(3) the farmer shall observe the provision of Schedule 1 sub-paragraphs (9) to (17) from the start of the agreement. After the expiry of the 7 month period referred to in paragraph (1) above he shall observe the remaining provisions of Schedule 1 except that, notwithstanding the provisions of sub-paragraph (4) of that Schedule, he shall not apply more than 125kg of nitrogen per hectare per year as inorganic fertiliser.

SCHEDULE 5

Article 7(5)

CONSERVATION PLAN OPERATIONS

1. The construction of water penning structures or other works designed to control water levels.
2. The construction or reconstruction of culverts and other farm ditch crossings.
3. The restoration of ditches and dykes.
4. The restoration of ponds.
5. The restoration of reedbeds.
6. The provision of water supplies, fencing and collection pens associated with the reintroduction of livestock for grazing.
7. The planting, laying or coppicing of hedges.
8. The creation or improvement of herb-rich grassland.
9. Works to protect historic and archaeological features.
10. The provision and restoration of gates, stiles and footbridges where an agreement includes the requirements of Schedule 2 as to public access.

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 areas in England as environmentally sensitive areas where it appears to her particularly desirable to conserve, protect or enhance environmental features in those areas by the maintenance or adoption of particular agricultural methods.

This Order, which complies with Council Regulation (EEC) No. 2078/92 (OJ No. L215, 30.7.92, p.85) on agricultural methods compatible with the requirements of the protection of the environment and the maintenance of the countryside, designates an area on the Essex Coast as an environmentally

sensitive area (article 3). The 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 3JR.

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 by which that person agrees in consideration of payments to be made by the Minister to manage the land in accordance with the agreement. 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), as well as requirements as to public access which may be included in an agreement (article 5 and Schedule 2). It also details the additional provisions which may be included in an agreement (Schedules 3 and 4) and the conservation plan operations which may be carried out (Schedule 5).

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 such a breach has occurred (article 6). The rates of payment to be made by the Minister under an agreement are set out, including the rates applicable to an agreement which contains additional provisions designed to attract higher rates of payment (article 7).