STATUTORY INSTRUMENTS

1986 No. 2254

AGRICULTURE

The Environmentally Sensitive Areas (The Broads) Designation Order 1986

Made - - - -	17*th December* 1986
Laid before Parliament	18*th December* 1986
Coming into Operation	1*st March* 1987

Whereas, in accordance with section 18(1) of the Agriculture Act 1986 (**a**), it appears to 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, in accordance with the said section 18(1) of the said Act 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 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:—

Citation, commencement and extent

1.—(1) This Order may be cited as the Environmentally Sensitive Areas (The Broads) Designation Order 1986 and shall come into operation on 1st March 1987.

(2) This Order extends to England only.

Interpretation

2.—(1) In this Order—

"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 has entered into an agreement with the Minister;

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

(**a**) 1986 c.49.

"livestock unit" means—

(a) 1 cow, or

(b) 1.4 bulls or other bovine animals over two years old, or

(c) 1.6 bovine animals from one year to two years old inclusive, or

(d) 2.5 bovine animals less than one year old, or

(e) 1 equine over six months old, or

(f) 6.66 sheep;

"the Minister" means the Minister of Agriculture, Fisheries and Food;

"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 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 17th December 1986, signed and sealed by the Minister and deposited at the offices of the Ministry of Agriculture, Fisheries and Food at Great Westminster House, Horseferry Road, London SW1P 2AE.

Requirements to be included in 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.

Provisions as to breach of requirements to be included in agreement

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 civil 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 (**a**) 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, payments made by the Minister under an agreement shall be at the rate of £125 per annum for each hectare of grassland to which the agreement relates.

(**a**) 1950 c.27.

(2) Where an agreement includes the additional provisions specified in Schedule 2 as to agricultural practices, methods and operations and the installation and use of equipment, payments made by the Minister in respect of grassland which under the agreement is subject to those additional provisions shall be at the rate of £200 per annum for each hectare of such land.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 17th December 1986.

L.S.

Michael Jopling,
Minister of Agriculture, Fisheries and Food.

We consent,

Tony Durant,
Michael Neubert,
Two of the Lords Commissioners of Her Majesty's Treasury.

17th December 1986.

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 re-seed. The farmer shall not cultivate other than by chain harrow or roller;

(2) The farmer shall graze with cattle, sheep, or horses at an average stocking rate not exceeding 1.9 livestock units per hectare per year, but in any event not so as to cause poaching, undergrazing or overgrazing;

(3) The farmer shall take only one cut of grass for hay or silage in any year;

(4) Where the farmer cuts grass for hay or silage he shall graze the aftermath with livestock;

(5) The farmer shall not increase existing application rates of inorganic fertiliser and shall not in any event exceed 125 kilogrammes of nitrogen per hectare per year or 95 kilogrammes per hectare in any one application. The farmer shall not apply more than 75 kilogrammes of phosphate or 75 kilogrammes of potash per hectare per year;

(6) The farmer shall not apply pesticides;

(7) The farmer shall not apply herbicides 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 by spot treatment;

(8) Within two years of the commencement of the agreement the farmer shall obtain from the persons or bodies designated by the Minister written advice on the management of scrub.

2. As regards any woodland which is the subject of an agreement—

Within two years of the commencement of the agreement, the farmer shall obtain from the person or bodies designated by the Minister written advice on the management of woodland.

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

(1) The farmer shall maintain hedges;

(2) The farmer shall maintain ponds and reedbeds;

(3) The farmer shall not use a sub-soiler. The farmer shall not install under-drainage or mole drainage nor substantially modify any existing drainage system;

(4) The farmer shall maintain existing dykes by non-chemical means. Where the maintenance of water levels is within the farmer's control, the farmer shall—

(a) maintain dyke water levels at suitable levels for grazing livestock, and

(b) ensure that the depth of water in the dykes is not less than 30 centimetres between 30th September in any year and the following 1st April;

(5) The farmer shall ensure in farming the land that he does not damage or destroy any feature of historic interest;

(6) The farmer shall obtain written advice from the Minister concerning siting and materials before constructing buildings or roads or carrying out other engineering operations authorised under Class VI of the Town and Country Planning General Development Orders 1977 to 1985 (a). This requirement shall not apply to any development in respect of which notice of a direction restricting permitted development has been served under article 4 of the Town and Country Planning General Development Order 1977 (b).

(a) S.I. 1977/289, 1980/1946, 1981/245, 1569, 1983/1615, 1985/1011, 1981, amended by 1986/435.
(b) S.I. 1977/289; the relevant amending instruments are S.I. 1985/1981, 1986/435.

SCHEDULE 2 Article 6(2)

ADDITIONAL PROVISIONS IN AGREEMENT TO OBTAIN HIGHER RATE OF PAYMENT

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

(1) The farmer shall not cultivate between 31st March and 16th July in any year;

(2) The farmer shall not graze with livestock between 31st October in any year and the following 1st April;

(3) The farmer shall not cut grass for hay or silage before 16th July in any year;

(4) The farmer shall not top the sward before 16th July in any year;

(5) The farmer shall not—

(a) apply phosphate or potash, or

(b) increase existing rates of inorganic fertiliser, or

(c) apply more than 45 kilogrammes of nitrogen per hectare per year;

(6) The farmer shall not apply slurry;

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

(8) The farmer shall clean out dykes in rotation;

(9) The farmer shall not dig or maintain foot drains or grips;

(10) Where the maintenance of water levels is within the farmer's control, the farmer shall ensure that the depth of water in dykes is not more than 45 centimetres below marsh level between 31st March and 1st October in any year.

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 designates an area in the Broads as an environmentally sensitive area (article 3). The 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 Great Westminster House, Horseferry Road, London SW1P 2AE, and at

(a) Eastern Regional Office, Block C, Government Buildings, Brooklands Avenue, Cambridge CB2 2DR;

(b) Norwich Divisional Office, 122A Thorpe Road, Norwich NR1 1RN.

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 be thereby facilitated, and 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). Payments to be made by the Minister under an agreement are to be at the rate of £125 per year per hectare of grassland to which the agreement relates, or, in the case of grassland subject to the additional provisions set out in Schedule 2, at the rate of £200 per year per hectare of such land (article 6).

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