
STATUTORY INSTRUMENTS

1987 No. 2029

AGRICULTURE

**The Environmentally Sensitive Areas
(Breckland) Designation Order 1987**

<i>Made</i>	- - - -	<i>26th November 1987</i>
<i>Laid before Parliament</i>		<i>30th November 1987</i>
<i>Coming into force</i>	- -	<i>1st January 1988</i>

Whereas, as mentioned in section 18(1) of the Agriculture Act 1986(1), 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, as mentioned in 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 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), (4) and (11) 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 and commencement

1. This Order may be cited as the Environmentally Sensitive Areas (Breckland) Designation Order 1987 and shall come into force on 1st January 1988.

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;

“dry grassland” means grassland in which the soil is predominantly free-draining;

“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;⁴⁹.

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

“the Minister” means the Minister of Agriculture, Fisheries and Food;

“wet grassland” means grassland in 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 25th November 1987, 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 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.

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⁽²⁾ or any statutory modification or re-enactment thereof for the time being in force.

Rates of payment under agreement

6. Payments made by the Minister under an agreement shall be at the following rates: —

(a) £100 per annum per hectare of heathland or dry grassland subject to the provisions specified in Schedule 1;

(b) £100 per annum per hectare of arable land subject to the provisions specified in Schedule 2;

(2) 1950 c. 27

- (c) £125 per annum per hectare of wet grassland subject to the provisions specified in Schedule 3;
- (d) £300 per annum per hectare of arable land subject to the provisions specified in Schedule 4;
- (e) £100 per annum per hectare of arable land subject to the provisions specified in Schedule 5.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 25th November 1987.

L.S.

John MacGregor
Minister of Agriculture, Fisheries and Food

We consent,

Michael Neubert
Peter Lloyd
Two of the Lords Commissioners of Her
Majesty's Treasury

26th November 1987

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SCHEDULE 1

Article 4

REQUIREMENTS RELATING TO HEATHLAND AND DRY GRASSLAND

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

- (1) The farmer shall maintain heathland and dry grassland and shall not plough, level, re-seed, over-seed, scarify, roll or otherwise cultivate the land.
- (2) The farmer shall ensure that the sward is hard grazed but not so as to cause poaching. The farmer shall not graze with pigs or poultry.
- (3) Where alternative grazing land is available, the farmer shall exclude livestock from heathland and dry grassland between 15th March and 16th May in any year.
- (4) The farmer shall not irrigate.
- (5) The farmer shall not apply any organic or inorganic fertiliser.
- (6) The farmer shall not apply lime, slag or any substance designed to reduce the acidity of the soil.
- (7) The farmer shall not apply pesticides.
- (8) 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 such weeds by means of cutting or the use of herbicides. Herbicides used for any of the above-mentioned purposes shall be applied by weed wiper or spot treatment.
- (9) The farmer shall control scrub and bracken in accordance with a programme agreed in advance with the Minister.
- (10) The farmer shall restrict any supplementary feeding of livestock (including the use of mineral licks) to areas agreed in advance with the Minister.

SCHEDULE 2

Article 4

REQUIREMENTS FOR ARABLE LAND WHICH IS TO REVERT TO HEATHLAND OR DRY GRASSLAND

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 1987 —

- (1) In the course of the first period of eighteen months after the commencement of the agreement —
 - (a) The farmer shall crop the land with cereals.
 - (b) The farmer shall not apply lime, slag or any substance designed to reduce the acidity of the soil.
 - (c) The farmer shall not apply any fertiliser other than a maximum of 125 kilogrammes of nitrogen per hectare.
 - (d) The farmer shall remove straw immediately after harvesting, but not by means of burning.
- (2) In the course of the subsequent period of twelve months after the expiry of the eighteen-month period referred to in sub-paragraph (1) above —
 - (a) The farmer shall again crop the land with cereals.
 - (b) The farmer shall not irrigate.
 - (c) 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 such weeds by means of cutting or the use of herbicides. Herbicides used for any of the above-mentioned purposes shall be applied by weed wiper or spot treatment.

- (d) The farmer shall not apply pesticides, lime or any fertiliser, other than a maximum of 100 kilogrammes of nitrogen per hectare.
- (e) The farmer shall remove straw immediately after harvesting, but not by means of burning.
- (f) The farmer shall not undersow the crop.

(3) After harvesting the crop referred to in sub-paragraph (2) above, the farmer shall not cultivate the land and shall observe in relation to the land the requirements laid down in Schedule 1.

SCHEDULE 3

Article 4

REQUIREMENTS RELATING TO WET GRASSLAND

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

(1) The farmer shall maintain wet grassland and shall not plough, level, re-seed or over-seed. The farmer shall not cultivate between 31st March and 1st July in any year. Outside this period, he shall cultivate only by chain harrow or roller.

(2) The farmer shall graze with livestock, excluding pigs and poultry, but in any event not so as to cause poaching, undergrazing or overgrazing.

(3) The farmer shall not cut grass for hay or silage before 1st July in any year.

(4) The farmer shall not increase existing application rates of inorganic nitrogen and shall not in any event apply more than 45 kilogrammes of nitrogen per hectare per year. The farmer shall not apply phosphate or potash.

(5) The farmer shall not apply sewage sludge, slurry or pig or poultry manure.

(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, broadleaved dock or ragwort. The farmer shall control infestations of such weeds by means of cutting or the use of herbicides. Herbicides used for any of the above-mentioned purposes shall be applied by weed wiper or spot treatment.

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

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

(10) The farmer shall restrict any supplementary feeding of livestock (including the use of 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 continuously used in rotation for arable cropping since 31st August 1987 —

(1) The farmer shall cease production on a strip of land at least six metres wide at the edge of a field used for arable cropping.

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(2) In the course of the first twelve months after the commencement of the agreement, and on at least two occasions in the subsequent period of 48 months, the farmer shall cultivate the strip so as to create a seed bed. In all cases, cultivation shall take place between 31st July in any year and the following 1st January and only once in any period of twelve months.

(3) The farmer shall not sow grass or other seed in the strip but shall allow the natural establishment of plants.

(4) 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) pesticides;
- (d) herbicides, except to control nettles, spear thistle, creeping or field thistle, curled dock, broadleaved dock or ragwort. Herbicides used for these purposes shall be applied by weed wiper or spot treatment.

(5) The farmer shall not irrigate the strip.

(6) The farmer shall ensure that the strip is not materially damaged by the passage of machinery or by other means.

(7) Notwithstanding sub-paragraphs (2) and (4)(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 1987 —

The farmer shall observe the following requirements in regard to a strip of land at least six metres wide at the edge of a field used for the production of cereal crops —

(1) The farmer shall not apply pesticides except between 31st August in any year and the following 1st January.

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

- (a) Tri-allate, diclofop-methyl, difenzoquat, flamprop-M-isopropyl or benzoylpropethyl;
- (b) Glyphosate, provided that it is applied in the pre-harvest period by spot treatment and solely for the control of couch, black bent or onion couch;
- (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 for this purpose.

SCHEDULE 6

Article 4

SUPPLEMENTARY REQUIREMENTS

1. As regards any land which is the subject of an agreement and to which the provisions of any of the previous Schedules apply —

(1) The farmer shall maintain in the traditional manner all hedges and hedgerow trees which he is entitled to maintain.

(2) The farmer shall maintain existing ditches by non-chemical means.

(3) The farmer shall ensure in farming the land that he does not damage or destroy any feature of historic interest or any feature of geomorphological interest notified to him by the Minister.

(4) The farmer shall maintain ponds.

(5) 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⁽³⁾. 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⁽⁴⁾.

2. As regards any woodland, copses or trees on any land which is the subject of an agreement — 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 woodland, Scots Pine belts, copses and trees.

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, which complies with Title V of Council Regulation (EEC) No. 797/85 (OJ No. L93, 30.3.85, p.1) on improving the efficiency of agricultural structures, designates an area in Breckland 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, Cambridge CB2 2DR;
- (b) Norwich Divisional Office, 122a Thorpe Road, Norwich NR1 1RN;
- (c) Bury St Edmunds Area Office, Southgate, Bury St Edmunds, Suffolk IP33 2BD.

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 and 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 5 (article 4). (The agreement may

⁽³⁾ S.I. 1977/289, 1980/1946, 1981/245, 1569, 1983/1615, 1985/1011, 1981; the relevant amending instrument is S.I. 1986/435.

⁽⁴⁾ S.I. 1977/289; the relevant amending instruments are S.I. 1985/1981, 1986/435.

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also provide for the voluntary observance of the requirements of further Schedules, in which case additional payments will be made.) Annual payments to be made by the Minister under an agreement are to be at the rate per hectare of £100 for land subject to Schedule 1 or Schedule 2; £125 for land subject to Schedule 3; £300 for land subject to Schedule 4; and £100 for land subject to Schedule 5 (article 6).

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).