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STATUTORY INSTRUMENTS

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**1987 No. 2034**

**AGRICULTURE**

**The Environmentally Sensitive Areas  
(Test Valley) 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<sup>(1)</sup>, 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 Schedule 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 (Test Valley) Designation Order 1987 and shall come into force on 1st January 1988.

**Interpretation**

- 2.—(1) In this Order—

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(1) 1986 c. 49.

“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;

“fen habitat” means an area of semi-natural vegetation which is waterlogged throughout the year;

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

“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 to two years old inclusive, or
- (d) 2.5 bovine animals less than one year old, or
- (e) 6.66 sheep;

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

“wet woodland” means woodland in which the ground is waterlogged for the greater part of the year;

“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 shall be construed as a reference to the article 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 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 specified in the Schedule to this Order 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(2) or any statutory modification or re-enactment thereof for the time being in force.

**Rates of payment under agreement**

1. Payments made by the Minister under an agreement shall be at the rate of £80 per annum for each hectare of grassland to which the agreement relates.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on

L.S.

25th November 1987.

*John MacGregor*  
Minister of Agriculture, Fisheries and Food

We consent,

26th November 1987

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

## SCHEDULE

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 between 31st March and 16th June in any year. Outside this period he shall cultivate only by chain harrow or roller.

(2) Between 30th April and 1st September in any year the farmer shall graze with cattle or sheep at an average stocking rate not exceeding 1.5 livestock units and not less than 0.7 livestock units per hectare and in any event not so as to cause poaching, undergrazing or overgrazing at any time of the year.

(3) The farmer shall not top the sward or mow for hay or silage before 16th June 2n any year.

(4) Where the farmer cuts grass for hay or silage he shall wilt and turn the silage before removal and graze the aftermath with livestock.

(5) The farmer shall not apply any inorganic fertiliser.

(6) The farmer shall not increase existing application rates of organic fertiliser and shall not in any event apply more than 2.5 tonnes of farmyard manure per hectare per annum.

(7) The farmer shall not apply pig or poultry manure.

(8) The farmer shall not apply pesticides.

(9) The farmer shall not apply herbicides except to control nettles, spear thistle, creeping or field thistle, curled dock, broadleaved dock or ragwort, or for the stump treatment of cleared scrub. Herbicides used for these purposes shall be applied by weed wiper or by spot treatment.

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

(11) The farmer shall restrict supplementary feeding of livestock to areas agreed in advance with the Minister.

**2.** As regards any broadleaved woodland 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 broadleaved woodland, including copses and alder thickets.

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

(1) 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. These requirements shall not prevent the carrying out of any work or operation associated with the reinstatement of traditional water meadows. However, the farmer shall consult the Minister before commencing any such work or operation.

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

(3) The farmer shall maintain stockproof hedges in a stockproof condition using traditional methods and materials. The farmer shall maintain in the traditional manner trees and pollarded willows which he is entitled to maintain.

(4) The farmer shall retain wet woodland and fen habitats.

(5) The farmer shall maintain pools and lakes.

(6) The farmer shall maintain reedbeds in rotation by burning or cutting in a five-year cycle.

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

(8) The farmer shall obtain from the Minister written advice 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<sup>(3)</sup>. 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<sup>(4)</sup>.

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## 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 the Test Valley 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) South Eastern Regional Office, Block A, Government Buildings, Coley Park, Reading RG1 6DT;
- (b) Guildford Divisional Office, Block B, Government Buildings, Epsom Road, Guildford GU1 2LD;
- (c) Winchester Area Office, Cromwell House, 15 Andover Road, Winchester, Hants SO23 7EN.

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 the Schedule).

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 £80 per year per hectare of grassland to which the agreement relates (article 6).

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

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