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STATUTORY INSTRUMENTS

1994 No. 708

AGRICULTURE

The Environmentally Sensitive Areas (Cotswold Hills) 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 (Cotswold Hills) Designation Order 1994 and shall come into force on 6th April 1994.

⁽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).

Interpretation

2.—(1) In this Order—

“access route” means a strip of land 10 metres wide which is the subject of an agreement including the requirements specified in Schedule 2 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;

“extensive permanent grassland” means permanent grassland which is receiving no or only minimal inputs of fertiliser or pesticides;

“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;

“hay meadow” means land used for the production of hay;

“improved permanent grassland” means permanent grassland which is receiving regular inputs of fertiliser;

“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;

“wetland” means land which is subject to regular flooding or which 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 or Schedule shall be construed as a reference to the article or Schedule bearing that number in this Order.

Designation of environmentally sensitive areas

3. There is hereby designated as an environmentally sensitive area the area of land in the Cotswold Hills in the Counties of Avon, Gloucestershire and Hereford and Worcester which is shown coloured yellow on the maps contained in the volume of maps marked “volume of maps of the Cotswold Hills 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 for land to which the agreement relates at the following rates—

- (a) £12 per annum for each hectare of land other than improved permanent grassland or extensive permanent grassland or woodland;
- (b) £30 per annum for each hectare of improved permanent grassland;
- (c) £60 per annum for each hectare of extensive permanent grassland, unless a higher rate is applicable in accordance with paragraph (4) below.

(2) The Minister shall make payments at the rate per annum of £4 for each 0.25 metre of drystone walls restored per hectare in accordance with the programme referred to in Schedule 1 paragraph 1(5), subject to a maximum of 2 metres of drystone walls per hectare per annum, and to a maximum number of hectares corresponding to the area of land subject to the provisions of Schedule 1 which contains or is enclosed or partially enclosed by such walls.

(3) 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.

(4) Where an agreement includes the additional provisions specified in Schedule 3 in relation to any land, the Minister shall make payments at the rate of £260 for each hectare of that land.

(5) Where an agreement includes the additional provisions specified in Schedule 4, the Minister shall make payments at the rate per annum of £2 for each 0.5 metre of non-stockproof hedges per hectare, subject to a maximum of 2 metres of non-stockproof hedges per hectare per annum, and to a maximum number of hectares corresponding to the area of land subject to the provisions of Schedule 1 which contains or is enclosed or partially enclosed by such hedges.

(6) 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.

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

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

L.S.

3rd March 1994.

Gillian Shephard
Minister of Agriculture, Fisheries and Food

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 AN AGREEMENT

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

(1) the farmer shall not use land (including ley grassland which has been established for less than 5 years) for the growing of arable crops apart from land in such use on 31st December 1993;

(2) the farmer shall not increase existing application rates of organic and inorganic fertiliser. 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 any watercourse;

(3) the farmer shall not remove any walls, banks and hedges or any part thereof. He shall not plough or apply pesticides or fertiliser on land within 1 metre of any wall, bank or hedge;

(4) the farmer shall maintain stockproof walls, banks and hedges in a stockproof condition using traditional materials;

(5) the farmer shall agree in writing in advance with the Minister a programme for the restoration of drystone walls. The programme shall include the restoration of a minimum of 0.25 metre of drystone walls per hectare of land with a drystone wall or walls subject to the agreement per annum;

(6) the farmer shall retain and manage individual trees and groups of trees for which he is responsible and shall retain existing broadleaved woodland. Within two years of the start of the agreement, he shall obtain written advice from a person approved by the Minister on the management of existing woodland and groups of trees and on any proposals to plant new woodland or trees;

(7) the farmer shall manage scrub;

(8) the farmer shall carry out any necessary bracken control in accordance with a programme agreed in writing in advance with the Minister. Control shall be by means of asulam where mechanical means cannot be used;

(9) the farmer shall retain and manage watercourses, ditches, ponds and wetland (including margins and banks) for which he is responsible by mechanical means;

(10) the farmer shall maintain any weatherproof traditional farm buildings for which he is responsible in a weatherproof condition using traditional styles and materials;

(11) the farmer shall retain rock outcrops;

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

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

(14) the farmer shall not erect any permanent fences, except for backfencing hedges or banks, without the Minister's prior written approval;

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

(16) 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;

(17) the farmer shall ensure that livestock removed from the land do not graze areas of common which are not subject to an agreement.

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

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

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- (1) the farmer shall maintain the land and shall not plough, level or reseed;
- (2) the farmer shall not chain harrow or roll except to the extent that he did so at the start of the agreement;
- (3) the farmer shall graze with livestock other than pigs or poultry but not so as to cause poaching, overgrazing or undergrazing. He shall not graze horses except in conjunction with cattle or sheep or both;
- (4) the farmer shall rotate areas used for supplementary feeding of livestock so as to avoid poaching;
- (5) the farmer shall manage hay meadows as such for the duration of the agreement;
- (6) the farmer shall exclude stock from hay meadows at least seven weeks before the first cut for hay and in any event before 20th May until the end of cutting in any year;
- (7) the farmer shall cut hay meadows for hay each year, remove the cuttings and graze the aftermath. He shall not cut the grass before 8th July in any year;
- (8) the farmer shall wilt and turn any grass cut for silage and graze the aftermath;
- (9) the farmer shall not increase existing application rates of organic or inorganic fertiliser and in any event shall not apply more than 175kg of nitrogen per hectare per year;
- (10) the farmer shall not apply any fungicides or insecticides;
- (11) the farmer shall not apply any herbicides except to control bracken, stinging nettles, spear thistle, creeping or field thistle, curled dock, broadleaved dock or ragwort. Except for bracken control, herbicides used for these purposes shall be applied by wick applicator or by spot treatment;
- (12) the farmer shall not install any new land drainage system or modify any existing land drainage system so as to bring about improved drainage.

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

- (1) the farmer shall maintain the land and shall not carry out any mechanical operations from 1st April until 8th July inclusive in any year;
- (2) the farmer shall graze with cattle or sheep or both, or with horses in conjunction with cattle or sheep or both;
- (3) the farmer shall not exceed 0.75 livestock units per hectare on land in valley bottoms from 1st April until 31st May inclusive in any year;
- (4) the farmer shall restrict supplementary feeding of cattle or sheep to areas agreed with the Minister in writing in advance;
- (5) the farmer shall not apply any organic or inorganic fertiliser except for farmyard manure. He shall apply farmyard manure in a single application and shall not increase existing application rates and in any event shall not apply more than 12.5 tonnes per hectare per year on hay meadows and 12.5 tonnes per hectare in any three year period on other land. He shall not apply slurry, pig or poultry manure or sewage sludge;
- (6) the farmer shall not apply lime, slag or any other substance designed to reduce the acidity of the soil;
- (7) the farmer shall observe the provisions of paragraph 2 above.

SCHEDULE 2

Articles 5 and 7(3)

REQUIREMENTS AS TO PUBLIC ACCESS

As regards any access route which is the subject of an 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 ten 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(4)

ADDITIONAL PROVISIONS — I

(REVERSION OF ARABLE LAND TO EXTENSIVE PERMANENT GRASSLAND)

As regards any land which is the subject of an agreement, which is suitable for reversion to extensive permanent grassland and which on 31st December 1993 was in arable cropping or had been in ley management for less than 5 years as part of an arable rotation—

- (1) the farmer shall cease arable production or ley grassland production and shall establish a grassland sward within 7 months of the start of the agreement, using seed from grass species approved by the Minister;
- (2) during a period of 7 months from the start of the agreement the farmer shall not apply:
 - (a) lime, slag or any other substance designed to reduce the acidity of the soil;
 - (b) any fungicide, insecticide or herbicide;
- (3) during each of the three years following grassland establishment, the farmer shall cut the grass for hay, remove the cuttings and graze the aftermath with livestock;

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(4) the farmer shall observe the provisions of paragraph 1 of Schedule 1 and sub-paragraph 2(12) of Schedule 1 from the start of the agreement. After the expiry of the 7 month period referred to in paragraph (1) above he shall also observe the remaining provisions of Schedule 1.

SCHEDULE 4

Article 7(5)

ADDITIONAL PROVISIONS — II

(RESTORATION OF NON-STOCKPROOF HEDGES)

As regards any non-stockproof hedges which are the subject of an agreement, the farmer shall carry out a programme agreed in writing in advance with the Minister for the restoration of such non-stockproof hedges to a stockproof condition by traditional means, including laying.

SCHEDULE 5

Article 7(6)

CONSERVATION PLANS OPERATIONS

1. The provision of drystone walls.
2. The planting of hedges.
3. The restoration of ponds.
4. The restoration of traditional farm buildings.
5. Works to protect historic and archaeological features.
6. The control of bracken or scrub.
7. The provision of water supplies and fencing associated with the reintroduction of livestock for grazing.
8. 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, 20.7.92, p.85) on agricultural methods compatible with the requirements of the protection of the environment and the maintenance of the countryside, designates an area in the Cotswold Hills 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 the requirements as to public access which may be included in an agreement (article 5 and Schedule 2). It also details 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).