

**1999 No. 2237**

**AGRICULTURE**

**The Environmentally Sensitive Areas (Upper Thames Tributaries) Designation (Amendment) Order 1999**

*Made* - - - - - *9th August 1999*

*Laid before Parliament* *9th August 1999*

*Coming into force* *31st August 1999*

Whereas, pursuant to section 18(1) of the Agriculture Act 1986(a), the Minister of Agriculture, Fisheries and Food (“the Minister”) has by order designated an area in the Upper Thames Tributaries as an environmentally sensitive area (“the designated area”);

And whereas it appears to the Minister that it is particularly desirable—

- (1) to conserve and enhance the natural beauty of the designated area together with an additional area in the valleys of the Upper Thames and its tributaries;
- (2) to conserve the flora and fauna and geological and physiographical features of those areas; and
- (3) to protect buildings and other objects of historic interest in that area;

And whereas it appears to the Minister that the maintenance or adoption of particular agricultural methods in respect of the matters specified in the Schedules to the following Order is likely to facilitate such conservation, enhancement or protection;

Now therefore, the Minister, in exercise of the powers conferred on him by section 18(1) and (4)(b) 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 Agency, the Nature Conservancy Council for England(c) in accordance with section 18(1) of the said Act, and with the Historic Buildings and Monuments Commission for England in accordance with section 99 of the Environment Act 1995(d), makes the following Order:

**Title and commencement**

1. This Order may be cited as the Environmentally Sensitive Areas (Upper Thames Tributaries) Designation (Amendment) Order 1999 and shall come into force on 31st August 1999.

**Interpretation**

2. In this Order “the principal Order” means the Environmentally Sensitive Areas (Upper Thames Tributaries) Designation Order 1994(e), as amended at the date that this Order comes into force.

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(a) 1986 c. 49. The expression “the Minister” is defined in section 18(11).

(b) Section 18(4) was amended by S.I. 1994/249; sub-section 18(4A) was inserted by S.I. 1997/1457.

(c) 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).

(d) 1995 c. 25.

(e) S.I. 1994/712, amended by S.I. 1996/2105, S.I. 1996/3104 and S.I. 1998/1803.

## **Amendment of the principal Order**

**3.** The principal Order shall be amended in accordance with the following provisions of this Order.

**4.** In article 2(1) of the principal Order, the provisions immediately following the words “In this Order—” to the end of article 2(1), in so far as they were made under section 18 of the Agriculture Act 1986, shall be deleted and the following definitions shall be inserted at their appropriate alphabetical place:

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

“buffer strip” means a strip of land which is subject to a prohibition of the use of fertilisers and pesticides, is at least five metres wide and is located at the edge of a field used for the production of arable crops;

“capital activity” means an activity specified in Schedule 1;

“conservation plan” means a plan incorporated into an agreement for the carrying out of one or more capital activities within a specified period;

“cultivated land” means land which is regularly ploughed or otherwise cultivated or that is regularly treated with fertilisers;

“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 also entered into an agreement with the Minister;

“grassland” means land on which the vegetation consists primarily of grass species and includes meadowland, pasture and rough grazing;

“management activity” means an activity specified in Schedule 2;

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

“public access route” means a strip of land which is the subject of an agreement and on which access is given to the public;

“relevant date” means 31st August 1999;

“scrape” means a shallow excavation which may hold water seasonally;

“wet grassland” means grassland with the potential to retain winter and spring water levels at marsh level to create field wetness or to allow shallow pools to develop.”.

**5.** In article 3 of the principal Order, for the words “dated 3rd March 1994, signed and sealed by the Minister” there shall be substituted “dated 31st July 1999, signed on behalf of the Minister by the Parliamentary Secretary”.

**6.** For article 4 of the principal Order and the heading hereto there shall be substituted the following article and heading—

### **“Matters in respect of which payments may be made**

**4.** A payment to be made by the Minister under an agreement may be made in respect of—

(a) a capital activity; or

(b) a management activity which—

(i) in the case of a payment to be made under an agreement entered into before the relevant date, is specified in Part I or Part II of Schedule 2; and

- (ii) in the case of a payment to be made under an agreement entered into on or after the relevant date, is specified in Part I of Schedule 2.”.

**7.** For article 5 of the principal Order there shall be substituted the following article and heading thereto—

**“Rates of payment**

**5.—(1)** Payments to be made by the Minister under an agreement shall not exceed—

- (a) in the case of a management activity, the rate specified in respect of that activity in column 2 of Schedule 2; and
- (b) in the case of one or more capital activities included in a conservation plan, £100,000 in aggregate.

(2) Any works which form part of an activity which constitutes both a management activity and a capital activity may by virtue of an agreement be eligible for payment either as part of a management activity or as part of a capital activity, but the agreement together with any conservation plan incorporated in it shall not provide for payment to be made on both such bases in respect of the same works.”.

**8.** For Schedule 1 to the principal Order there shall be substituted the Schedule set out in Schedule 1 to this Order.

**9.** For Schedule 2 to the principal Order there shall be substituted the Schedule set out in Schedule 2 to this Order.

**10.** The following provisions of the principal Order shall be deleted—

- (a) articles 6 and 7; and
- (b) Schedules 3, 4, 5 and 6.

31st July 1999

*Elliot Morley*  
Parliamentary Secretary,  
Ministry of Agriculture, Fisheries and Food

We consent,

9th August 1999

*Jim Dowd*  
*Bob Ainsworth*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

## SCHEDULE 1

Article 8

### “SCHEDULE 1

Articles 2(1) and 5(1)

#### CAPITAL ACTIVITIES

The planting, laying, coppicing and gapping-up of hedges.

The creation or restoration of ponds.

The construction of water-penning structures or other works designed to control water levels.

The provision of fencing and water supplies associated with the re-introduction of livestock for grazing.

The restoration of ditches, fen habitats and reedbeds.

The restoration of stone walls.

The restoration of farm buildings using traditional materials.

Works to protect historic and archaeological features.

The re-introduction of pollarding management.

The creation or improvement of herb-rich grassland.

Works to protect historic and archaeological features.

The provision or restoration of gates, stiles and footbridges where an agreement includes requirements as to public access.

The management of scrub.

The creation of scrapes.

The restoration of dykes, ditches, gutters and footdrains.

The provision of silt traps in water courses.

Diverse seed mix for arable reversion.

Fencing to protect habitats.

Other works associated with habitat restoration or enhancement.”.

SCHEDULE 2

Article 9

“SCHEDULE 2

Articles 2(1) and 5(1)

MANAGEMENT ACTIVITIES

*Column 1*

**Activity  
Part I**

*Column 2*

**Maximum rate in £ per  
hectare of land per  
annum (except where  
otherwise stated)**

1.	Maintenance of permanent grassland	30
2.	Where management of the kind referred to in item 1 above is undertaken, additional management for the purpose of prohibiting the application of fertiliser within 6 metres of any field boundary	20
3.	Where management of the kind referred to in item 1 above is undertaken, additional management for the purposes of enhancing biodiversity through the exclusion of livestock	50
4.	Management of extensive permanent grassland	105
5.	Where management of the kind referred to in item 4 above is undertaken, additional management so as to conserve meadowland	55
6.	Management of wet grassland	270
7.	In relation to cultivated land:	
	(a) reversion of cultivated land to extensive permanent grassland	290
	(b) reversion of cultivated land to wet grassland	435
	(c) the creation and management of arable margin buffer strips	400
8.	Hedgerow restoration	£7 per metre
9.	The provision of public access routes	170

*Column 1*

**Activity  
Part II**

*Column 2*

**Maximum rate in £ per  
hectare of land per  
annum**

1.	Management of wet grassland	155
2.	Reversion of cultivated land to wet grassland	330”

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Environmentally Sensitive Areas (Upper Thames Tributaries) Designation Order 1994 (“the principal Order”) as amended, which designated an area in the Upper Thames Tributaries as an environmentally sensitive area, in implementation of Council Regulation (EEC) No. 2078/92 (OJ No. L215, 30.7.92, p. 85) on agricultural production methods compatible with the requirements of protection of the environment and the maintenance of the countryside, as amended by Council Regulation (EC) No. 2772/95 (OJ No. L288, 1.12.95, p. 35) as in turn rectified by Council Regulation (EC) No. 1962/96 (OJ No. L259, 12.10.96).

This Order replaces the Schedules to the principal Order (laying down detailed requirements of the scheme) by two new Schedules specifying the capital and management activities in respect of which payments may be made, and specifies the maximum payments in respect of such activities (*articles 8 and 9*).

The area designated by the principal Order is increased (by an amendment to article 3 of the principal Order) and the designated area as thereby enlarged is shown (coloured yellow) in a new volume of maps dated 31st July 1999, which replaces the volume of maps referred to in article 3 of the principal Order dated 3rd March 1994 (*article 5*).

In addition some modifications are made to the definitions set out in article 2(1) of the principal Order (*article 4*).

The provisions of the principal Order that are amended or revoked do not include any that derive from the Environmentally Sensitive Areas (England) Designation Orders (Amendment) Regulations 1996 (S.I. 1996/3104); those which derive from S.I. 1996/3104 are revoked (subject to a saving in certain cases) by the Environmentally Sensitive Areas (England) Designation Orders (Revocation of Specified Provisions) Regulations 1999, which come into force on 30th August 1999.

No regulatory impact assessment has been made in respect of this Order.

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