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STATUTORY INSTRUMENTS

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**1998 No. 1304**

**AGRICULTURE**

**The Environmentally Sensitive Areas (North Kent Marshes) Designation (Amendment) Order 1998**

<i>Made</i>	- - - -	<i>19th May 1998</i>
<i>Laid before Parliament</i>		<i>27th May 1998</i>
<i>Coming into force</i>	- -	<i>22nd June 1998</i>

Whereas, pursuant to section 18(1) of the Agriculture Act 1986<sup>(1)</sup>, the Minister of Agriculture, Fisheries and Food (“the Minister”) has by order designated an area in the North Kent Marshes 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;
- (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 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 said Minister, in exercise of the powers conferred on him by section 18(1) and (4)<sup>(2)</sup> 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 for England<sup>(3)</sup> 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<sup>(4)</sup>, makes the following Order:

**Title and commencement**

**1.** This Order may be cited as the Environmentally Sensitive Areas (North Kent Marshes) Designation (Amendment) Order 1998 and shall come into force on 22nd June 1998.

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(1) 1986 c. 49. The expression “the Minister” is defined in section 18(11).  
(2) Section 18(4) was amended by S.I. 1994/249; sub-section 18(4A) was inserted by S.I. 1997/1457.  
(3) 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 Environment Act 1990 (c. 43).  
(4) 1995 c. 25.

## Interpretation

2. In this Order “the principal Order” means the Environmentally Sensitive Areas (North Kent Marshes) Designation (Amendment) Order 1993(5), as amended at the date that this Order comes into force.

## 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 on the use of fertilisers and pesticides, is at least six metres wide and is located at the edge of a field used for the production of arable crops and which adjoins an open drainage channel;

“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;

“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;

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

“permanent grassland” means grassland which has not been ploughed or reseeded 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 22nd June 1998; and

“woodland” means land used for woodland where that use is ancillary to the farming of land for other agricultural purposes.”.

5. For article 4 of the principal Order and the heading thereto 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.”

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

**“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.”.

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

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

9. The following provisions shall be deleted—

- (a) articles 4A and 6; and
- (b) Schedules 1A, 3 and 4.

18th May 1998

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

We consent,

19th May 1998

*Graham Allen*  
*Jim Dowd*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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

**SCHEDULE 1**

Article 8

“**SCHEDULE 1**

Articles 2(1) and 5(1)

**CAPITAL ACTIVITIES**

- The construction of bunds or sluices, or other works designed to control water levels.
- The restoration and reprofiling of ditches and dykes.
- The creation or restoration of ponds.
- The construction or reconstruction of culverts.
- The gapping, laying or coppicing of hedges.
- Works to protect historic and archaeological features.
- The provision and restoration of gates, stiles and footbridges, where an agreement includes requirements as to public access.
- Provision of water supplies and fencing associated with the reintroduction of grazing.
- Wind pumps for water level management.
- Provision of wooden gates and associated wing fencing.
- Creation of reedbeds (including sedgebeds).
- Creation of scrapes.
- Other works for the restoration or enhancement of wildlife habitats.”

**SCHEDULE 2**

Article 9

“**SCHEDULE 2**

Articles 2(1) and 5(1)

**MANAGEMENT ACTIVITIES**

<i>Column 1</i> <i>Activity</i>	<i>Column 2</i> <i>Maximum rate in £ per hectare of land per annum</i>
<b>Part I</b>	
1. Management of permanent grassland.	130
2. Management of grassland so as to bring about and maintain high water levels.	200
3. In relation to cultivated land:	265
(a) reversion of arable land to grassland	
(b) the creation and management of buffer strips.	400
4. Maintenance of woodland.	17
5. The provision of public access routes.	170
<b>Part II</b>	
Where management of any kind referred to in item 1 of Part 1 above is undertaken, additional	50”

<i>Column 1</i> <i>Activity</i>	<i>Column 2</i> <i>Maximum rate in £ per hectare of land per annum</i>
management for the purpose of bringing about and maintaining highwater levels.	

### EXPLANATORY NOTE

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

This Order amends the Environmentally Sensitive Areas (North Kent Marshes) Designation Order 1993 (“the principal Order”) which designated an area in the North Kent Marshes 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 Commission Regulation (EC) No. 2772/95 (OJ No. L288, 1.12.95, p. 35) as in turn rectified by Commission Regulation (EC) No. 1962/96 (OJ No. L259, 12.10.96, p7).

The definitions set out in article 2(1) of the principal Order are consolidated and in addition new definitions are inserted (*Article 4*).

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.

The provisions of the principal Order that are amended or revoked do not include any that derive from the Environmentally Sensitive Areas (England) Designation (Amendment) Regulation 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 (Revocation of Specified Provisions) Regulations 1998, coming into force on 21st June 1998.

No regulatory appraisal has been made in respect of this Order.