

1992 No. 68

AGRICULTURE

**The Hill Livestock (Compensatory Allowances) Regulations
(Northern Ireland) 1992**

Made 27th February 1992

Coming into operation 28th February 1992

The Department of Agriculture being a Department designated (a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred upon it by that section and of every other power enabling it in that behalf hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1992 and shall come into operation on February 1992.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these Regulations as it applies to a measure of the Northern Ireland Assembly.

(2) In these Regulations—

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the use of land for other agricultural purposes, and “agricultural” shall be construed accordingly;

“approved breed” means any hardy breed or cross breed of sheep approved by the Department for the purposes of these Regulations, being a breed or cross breed which is suitable for breeding and rearing on land in respect of which the severity of the permanent natural handicaps affecting the breeding and rearing of sheep on that land is greater than that affecting the breeding and rearing of sheep on severely disadvantaged land generally;

(a) S.I. 1972/1811

(b) 1972 c. 68: section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.R. (N.I.) 1984 No. 253

(c) 1954 c. 33 (N.I.)

“breeding cow” means a female bovine animal, comprised in a regular breeding herd, which is not maintained primarily for the production of milk and which, on or before the qualifying day—

(a) has borne a calf and is capable of lactation, or

(b) has been brought into the herd primarily for the purpose of replacing an animal which has borne a calf, and is, in the opinion of the Department, suitable for the purpose of bearing a calf during the year following the qualifying day;

“Council Regulation” means Council Regulation (EEC) No. 2328/91(a) on improving the efficiency of agricultural structures;

“the Department” means the Department of Agriculture for Northern Ireland;

“designated map” means the map marked “map of less-favoured farming areas in Northern Ireland”, dated 8th May 1991, signed by the Secretary of State and deposited at the Offices of the Department at Dundonald House, Upper Newtownards Road, Belfast, BT4 3SB;

“disadvantaged land” means the land shown coloured blue or coloured pink on the designated map, being land—

(a) which is, in the opinion of the Department, inherently suitable for extensive livestock production but not for the production of crops in quantity materially greater than that necessary to feed such livestock as are capable of being maintained on such land, and

(b) whose agricultural production is, in the opinion of the Department, restricted in its range by, or by any combination of, soil, relief, aspect or climate;

“ECU” means the unit of account used for the purposes of the common agricultural structures policy of the European Community, and any reference in these Regulations to a specified number of ECU in relation to a compensatory allowance shall be taken to be a reference to the sterling equivalent of that number of ECU converted into sterling at the agricultural exchange rate applicable on the qualifying day in the year in which the compensatory allowance is paid;

“eligible land” means an area of land of not less than three hectares—

(a) which is situated in an area included in the list of less-favoured farming areas adopted by the Council or the Commission of the European Communities under Article 2(2) of Council Directive No. 75/268/EEC(b) on mountain and hill farming and farming in certain less-favoured areas as amended by Council Directive 80/666/EEC(c), which list is contained in Council Directive 84/169/EEC(d) as amended by Commission Decision 91/25/EEC(e), and

(a) OJ No. L218, 6.8.91, p. 1
(b) OJ No. L128, 19.5.75, p. 1
(c) OJ No. L180, 14.7.80, p. 34
(d) OJ No. L82, 26.3.84, p. 67
(e) OJ No. L16, 22.1.91, p. 25

(b) which is severely disadvantaged land or disadvantaged land;

“ewe” means a female sheep which, on the qualifying day, is more than one year old;

“forage area” means the area of land producing plants grazed by, or fed to, livestock;

“livestock unit” means the unit of measurement of numbers of livestock described in article 19 and annex 1 of the Council Regulation;

“occupier” includes a person who has a right to use eligible land for the purpose of grazing cattle or sheep;

“overgrazing” means grazing land with livestock in such numbers as adversely to affect the growth, quality or species composition of vegetation (other than vegetation normally grazed to destruction) on that land to a significant degree;

“qualified flock” means a flock of ewes which is kept on eligible land, or on eligible land and other land used with it, primarily for the breeding and rearing of lambs, and which is, in the opinion of the Department, maintained and managed in accordance with sound husbandry practice;

“the qualifying day” means, in respect of any year in which a compensatory allowance may be paid under these Regulations, 1st January in that year;

“regular breeding herd” means a herd of cattle which is kept on eligible land, or on eligible land and other land used with it, and which—

- (a) has, on the qualifying day, been in existence for a period of at least six months,
- (b) is, in the opinion of the Department, maintained primarily for the purpose of breeding and rearing calves, and
- (c) comprises, in the opinion of the Department, a reasonably constant number of cattle and is maintained and managed in accordance with sound husbandry practice;

“relevant afforested land” means land which in the opinion of the Department was converted to forest on or after 1st January 1986 and before 1st January 1988 by or on behalf of a person to whom a compensatory allowance was paid in respect of that land before the date when the conversion to forest was completed under the Hill Livestock (Compensatory Allowances) Regulations 1984(a), the Hill Livestock (Compensatory Allowances) Regulations 1979(b) or the Hill Livestock (Compensatory Allowances) Regulations 1975(c); but land shall cease to be relevant afforested land for the purposes of these Regulations 15 years after the date when such conversion was completed;

(a) S.I. 1984/2024 amended by S.I. 1985/2075, 1987/2129, 1990/308, 1991/392 and 1991/1439
 (b) S.I. 1979/1748, amended by S.I. 1980/2028, 1981/1843, 1982/1886 and revoked by S.I. 1984/2024
 (c) S.I. 1975/2210, amended by S.I. 1976/1203, 1977/1960, 1979/941 and revoked by S.I. 1979/1748

“retirement pension” means a category A and category B pension within the meaning of section 12(1)(f) of the Social Security (Northern Ireland) Act 1975(a); a category C and category D pension within the meaning of section 34(1)(e) of that Act;

“severely disadvantaged land” means—

(a) the land shown coloured pink on the designated map, being land—

(i) which is, in the opinion of the Department, inherently suitable for extensive livestock production but not for the production of crops in quantity materially greater than that necessary to feed such livestock as are capable of being maintained on such land, and

(ii) whose agricultural production is, in the opinion of the Department, severely restricted in its range by, or by any combination of, soil, relief, aspect or climate;

“sound husbandry practice” includes practice in relation to the grazing and feeding of livestock;

“specially qualified flock” means a qualified flock in which all, or in the opinion of the Department substantially all, of the ewes comprised in the flock are of an approved breed, and which is maintained on severely disadvantaged land or on severely disadvantaged land and other land used with it.

Compensatory allowances

3.—(1) Subject to the provisions of these Regulations, the Department may, in respect of the year 1992 and each succeeding year, pay to any person who is on the qualifying day in that year the occupier of eligible land, a compensatory allowance for cattle and sheep maintained by him on that day, being cattle comprised in a regular breeding herd and sheep comprised in a qualified flock.

(2) A compensatory allowance in respect of any year shall be paid to an occupier of eligible land only if (except in the case of such an occupier who is in receipt of a retirement pension) he has entered into a written undertaking in such form as the Department may require to the effect that he will for a period of five years from the first payment of a compensatory allowance made under these Regulations, the Hill Livestock (Compensatory Allowances) Regulations 1984(b) or the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1987(c) continue to use eligible land for agricultural purposes.

(3) Subject to regulations 3(5), 3(6) and 4, a compensatory allowance for cattle shall be payable in respect of the number of breeding cows comprised in a herd on the qualifying day at the following rates—

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- (a) 1975 c. 15; section 12(1)(f) was amended by the Social Security Pensions (NI) Order 1975 S.I. 1975/1503 (NI), Schedule 5, paragraph 19
- (b) S.I. 1984/2024 amended by S.I. 1985/2075
- (c) S.R. (NI) 1987 No. 92 as amended by S.R. 1987 No. 445, S.R. 1990 No. 36, S.R. 1991 No. 58 and S.R. 1991 No. 286

- (a) in the case of cows maintained by a person whose eligible land comprises solely severely disadvantaged land £63.30 or 102 ECU per cow;
- (b) in the case of cows maintained by a person whose eligible land comprises severely disadvantaged land and disadvantaged land—
- (i) £63.30 or 102 ECU per cow up to an amount calculated by multiplying the total number of hectares of severely disadvantaged land which is available to that person in accordance with paragraph (5)(a) or which is relevant afforested land by £81.13 and deducting from the resulting figure any allowance payable in respect of sheep maintained by that person under paragraph (4) (other than the allowance payable at the rate of £2.45 or 15.3 ECU per ewe); and
 - (ii) thereafter £31.65 or 102 ECU per cow;
- (c) in the case of cows maintained by a person whose eligible land comprises solely disadvantaged land, £31.65 or 102 ECU per cow.
- (4) Subject to regulations 3(5), 3(6) and 5, a compensatory allowance for sheep shall be payable in respect of the number of ewes comprised in a flock on the qualifying day at the following rates—
- (a) in the case of ewes of an approved breed comprised in a specially qualified flock, £8.75 or 15.3 ECU per ewe;
- (b) in the case of ewes not referred to in sub-paragraph (a) maintained by a person—
- (i) whose eligible land comprises solely severely disadvantaged land, £4.90 or 15.3 ECU per ewe;
 - (ii) whose eligible land comprises severely disadvantaged land and disadvantaged land, £4.90 or 15.3 ECU per ewe for a number of ewes calculated by multiplying the total number of hectares of severely disadvantaged land which is available for the maintenance of the flock in accordance with regulations 5(2)(c) or which is relevant afforested land by 6, and deducting from the resulting figure the number of ewes, if any, falling within sub-paragraph (a) which are kept on that land, and thereafter for additional ewes £2.45 or 15.3 ECU per ewe;
 - (iii) whose eligible land comprises solely disadvantaged land, £2.45 or 15.3 ECU per ewe.
- (5) Notwithstanding the provisions of paragraphs (3) and (4), the total amount of a compensatory allowance which may be paid in respect of any year—
- (a) to the occupier of severely disadvantaged land, shall not exceed £81.13 for each hectare of such land which appears to the Department to have been available to that occupier in the preceding year for the maintenance of his herd or flock or which is relevant afforested land;
- (b) to the occupier of disadvantaged land, shall not exceed £60.85 for each hectare of such land which appears to the Department to have

been available to that occupier in the preceding year for the maintenance of his herd or flock or which is relevant afforested land.

(6) Where in this regulation alternative rates in sterling and in ECU are given, the rate which results in the lower payment in sterling shall apply.

Provisions with respect to cattle

4.—(1) A compensatory allowance for cattle shall not be paid in respect of any breeding cow the use of which for breeding would not, in the opinion of the Department, be in accordance with sound husbandry practice.

(2) Where, in the opinion of the Department, an appreciable quantity of milk has been produced by a regular breeding herd in the period of 12 months immediately preceding the qualifying day, and any of that milk has been sold or used for the manufacture of milk products for sale, a compensatory allowance shall be payable in relation to that qualifying day in respect of the number of breeding cows comprised in the herd on that day, reduced by such number as appears to the Department to be the number of cows in the herd required to produce that quantity of milk in that period.

(3) Subject to paragraph (1) and notwithstanding paragraph (2) and the foregoing provisions of these Regulations, the number of breeding cows in respect of which a compensatory allowance may be paid in relation to any qualifying day shall not exceed—

- (a) the number of breeding cows which the Department may determine as the number which it is satisfied has been comprised in the herd throughout the greater part of the year preceding the qualifying day or, in the case of a herd newly established or re-established in that year, throughout such shorter period thereof as the Department may determine, disregarding—
 - (i) any seasonal variation in number, and
 - (ii) any losses which it is satisfied have been or will be made good, or cannot reasonably be made good, within a reasonable period;
- (b) the number of breeding cows which, in the opinion of the Department, is reasonable, having regard to the number of calves produced in the year preceding the qualifying day or, in the case of a herd newly-established or re-established in that year, in such shorter period as the Department may determine;
- (c) the number of breeding cows which the Department determines to be the number which the land on which the herd was grazed and maintained in the year preceding that day was, in its opinion, capable of carrying without overgrazing the whole or any part of it, taking into account the number of other animals grazed and maintained on that land in that year; or
- (d) the number of breeding cows which when added to the number of breeding ewes in qualified flocks grazed and maintained on that land is equivalent to the maximum number of livestock units per hectare of the forage area of the holding permitted in respect of the

grant of a compensatory allowance by article 19(a) of the Council Regulation.

Provisions with respect to sheep

5.—(1) A compensatory allowance for sheep shall not be paid in respect of any ewe the use of which for breeding would not, in the opinion of the Department, be in accordance with sound husbandry practice.

(2) Subject to paragraph (1), and notwithstanding the foregoing provisions of these Regulations, the number of ewes in respect of which compensatory allowance may be paid in relation to any qualifying day shall not exceed—

- (a) the number of ewes which the Department may determine as the number of ewes which it is satisfied have been comprised in the flock throughout the greater part of the year preceding that day or, in the case of a flock newly established or re-established in that year, throughout such shorter period thereof as the Department may determine, disregarding—
 - (i) any seasonal variation in number, and
 - (ii) any losses which it is satisfied have been or will be made good, or cannot reasonably be made good, within a reasonable period;
- (b) the number of ewes which, in the opinion of the Department, is reasonable, having regard to the number of lambs produced in the year preceding the qualifying day or, in the case of a flock newly established or re-established in that year, in such shorter period as the Department may determine;
- (c) a number calculated at the rate of—
 - (i) six ewes for each hectare of severely disadvantaged land, and
 - (ii) nine ewes for each hectare of disadvantaged land, being land which the Department is satisfied was available for the maintenance of the flock throughout the greater part of the year preceding that day, or throughout such shorter period of that year as is referred to in sub-paragraph (a) or which is relevant afforested land; or
- (d) the number of ewes which the Department determines to be the number which the land on which the flock was grazed and maintained in the year preceding that day was, in its opinion, capable of carrying without overgrazing the whole or any part of it, taking into account the number of other animals grazed and maintained on that land in that year; or
- (e) the number of ewes which when added to the number of cattle comprised in a regular breeding herd grazed and maintained on that land is equivalent to the maximum number of livestock units per hectare of the forage area of the holding permitted in respect of the grant of compensatory allowance by article 19(a) of the Council Regulation.

Power of Department to apportion eligible land in certain cases

6. Where it appears to the Department that on the qualifying day in any year, or during the year immediately preceding that qualifying day, any land was available for the maintenance of—

- (a) more than one regular breeding herd,
- (b) more than one qualified flock, or
- (c) breeding cows comprised in a regular breeding herd and ewes comprised in a qualified flock,

the Department may, for the purpose of determining any person's entitlement under the foregoing provisions of these Regulations, apportion that land among the occupiers or former occupiers thereof as it thinks reasonable in the circumstances.

Applications for compensatory allowances

7.—(1) The Department shall not pay a compensatory allowance unless an application for that payment has been submitted to the Department in such form and at such time as it may require.

(2) A person authorised by the Department may, on production of his authority on demand and at any reasonable time, enter on any land occupied by a person claiming a compensatory allowance or used by him for grazing a herd or flock to which an application for a compensatory allowance relates and may—

- (a) inspect that land for the purposes of determining the forage area;
- (b) inspect that land for the purposes of determining whether it has been overgrazed;
- (c) require that the person claiming a compensatory allowance or any person in charge of animals on the land gather together at a reasonable time and in a convenient place on that land the herd or flock to which his application relates for the purpose of counting and inspection;
- (d) count and inspect any animals on that land;
- (e) require that the person claiming a compensatory allowance furnish for inspection any document or other record in his possession or under his control relating to any animals kept or formerly kept by him; and
- (f) require the person claiming a compensatory allowance and any person in charge of animals on the land to render all reasonable assistance to him in his exercise of the powers conferred by this paragraph.

(3) In any counting of sheep, a reasonable allowance may be made for dead or ungathered animals.

(4) In exercising the power conferred on him by paragraph (2), an authorised person may be accompanied by such other persons as appear to him to be necessary and, in relation to the inspection of documents or records any of them shall be entitled to make such copies as he may think fit.

Release from undertaking

8. A person who applies for, or who is in receipt of, a compensatory allowance under these Regulations shall be released from the undertaking referred to in regulation 3(2), if—

- (a) he is in receipt of a retirement pension; or
- (b) he is prevented from continuing to discharge that undertaking by reason of any material circumstances beyond his control; or
- (c) he ceases farming and at least 3 hectares of his eligible land, or the eligible land used by him for the grazing of animals, continues to be used for agricultural purposes.

Recovery of compensatory allowances

9. Where any person—

- (a) with a view to obtaining payment to himself or to any other person of a compensatory allowance under these Regulations makes any statement which is untrue or misleading in a material particular, or
- (b) having given an undertaking under regulation 3(2), which has not been released in accordance with regulation 8, fails in any way to comply with the terms thereof, or
- (c) being a person who has claimed a compensatory allowance under these Regulations, fails to comply with a requirement by a person authorised by the Department in accordance with regulation 7(2)(c), (e) or (f),

the Department shall be entitled to withhold or to recover on demand as a debt the whole or any part of any compensatory allowance payable or paid to him or to such other person.

False statements

10. If any person for the purpose of obtaining for himself or any other person a compensatory allowance under these Regulations knowingly or recklessly makes a false statement, he shall be liable on summary conviction to a fine not exceeding £2,000.

Revocations

11. The Regulations listed in the Schedule are hereby revoked.

Transition and savings

12.—(1) For the purposes of these Regulations any undertaking given or act or other thing done under the Hill Livestock (Compensatory Allowances) Regulations 1984 or the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1987 shall be deemed to have been given or done (as the case may be) under these Regulations.

(2) Without prejudice to section 28 of the Interpretation Act (Northern Ireland) 1954, where immediately before the coming into operation of these Regulations the Department was entitled to recover the whole or any part

of a compensatory allowance paid under the Hill Livestock (Compensatory Allowances) Regulations 1984 or the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1987, the Department shall be entitled to recover all of the compensatory allowance or part thereof as if it had been paid under these Regulations.

(3) Notwithstanding paragraph (1) where, after the coming into operation of these Regulations, a person submits an application for a compensatory allowance which relates to 1985 or to any subsequent year up to and including 1991, the compensatory allowance may be paid at the rate established for that year under the Hill Livestock (Compensatory Allowances) Regulations 1984 and the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1987.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on February 1992.

(L.S.)

D. A. J. Hirrell
Assistant Secretary

REVOCATIONS

Regulations revoked	References
The Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1987	S.R. 1987 No. 92
The Hill Livestock (Compensatory Allowances) (Amendment) Regulations (Northern Ireland) 1987	S.R. 1987 No. 445
The Hill Livestock (Compensatory Allowances) (Amendment) Regulations (Northern Ireland) 1990	S.R. 1990 No. 36
The Hill Livestock (Compensatory Allowances) (Amendment) Regulations (Northern Ireland) 1991	S.R. 1991 No. 58
The Hill Livestock (Compensatory Allowances) (Amendment No. 2) Regulations (Northern Ireland) 1991	S.R. 1991 No. 286

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate with amendments the Hill Livestock (Compensatory Allowances) (Northern Ireland) Regulations 1987, as amended. The Regulations comply with Council Directive 75/268/EEC (OJ No. L128, 19.5.75, p. 1) on mountain and hill farming and farming in certain less-favoured areas, and with articles 17 to 19 of Council Regulation (EEC) 2328/91 (OJ No. L218, 6.8.91, p. 1) on improving the efficiency of agricultural structures.

The Regulations continue to provide for the payment of an annual compensatory allowance for cattle and sheep which are maintained by the occupier of "eligible land". "Eligible land" continues to be defined as land located in a less-favoured farming area which is shown on the designated map and which is "disadvantaged" or "severely disadvantaged"; the map is available for inspection during normal office hours at the address specified in the definition of "designated map" (regulation 2(2)). The rates of payment of the allowance remain the same per animal as under the superseded Regulations, although the total amounts payable per hectare of land are increased (regulation 3).

Apart from minor and drafting amendments, the following changes are also made by these Regulations—

- (a) a definition of overgrazing is introduced (regulation 2(2));
- (b) the provisions governing the eligibility of cattle and sheep for the payment of a compensatory allowance are made more consistent with one another and parts which referred to brucellosis eradication are omitted (regulations 4 and 5);
- (c) reference to the stocking limits for livestock contained in Council Regulation (EEC) 2328/91 are introduced (regulations 4 and 5);
- (d) the powers of entry are enlarged (regulation 7);
- (e) a transitional provision in relation to the calculation of allowances for 1992 is introduced to prevent double payment (regulation 12).