
STATUTORY INSTRUMENTS

1991 No. 2632

AGRICULTURE

The Suckler Cow Premium Regulations 1991

Made - - - - *20th November 1991*
Laid before Parliament *21st November 1991*
22nd November
Coming into force - - *1991*

The Minister of Agriculture, Fisheries and Food and the Secretaries of State concerned with agriculture in Wales and Scotland, with the consent of the Treasury, acting jointly in exercise of the powers conferred on them by section 3 of the Agriculture and Forestry (Financial Provisions) Act 1991⁽¹⁾ and the Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated⁽²⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽³⁾ in relation to the common agricultural policy of the European Economic Community, acting jointly in exercise of the powers conferred on them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Title, extent and commencement

1. These Regulations may be cited as the Suckler Cow Premium Regulations 1991, shall apply in Great Britain and shall come into force on 22nd November 1991.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires,—

“additional premium” means the premium which, under Article 3(2) of the Council Regulation, Member States are authorised to grant from national funds and for the making of which provision is made by section 3 of the Agriculture and Forestry (Financial Provisions) Act 1991;

“applicant” means a person who has applied for a premium;

“appropriate Minister” means in relation to England, the Minister of Agriculture, Fisheries and Food and, in relation to Wales or Scotland, the Secretary of State concerned with agriculture in those parts of the United Kingdom;

(1) 1991 c. 33; section 3(4) contains a definition of “the Minister”.

(2) S.I.1972/1811.

(3) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read, as regards England and Wales, with sections 37, 40 and 46 of the Criminal Justice Act 1982 (c. 48) and section 52(4) of the Criminal Justice Act 1988 (c. 33) and with S.I. 1984/447; as regards Scotland, with sections 289F and 189G of the Criminal Procedure (Scotland) Act 1975 (c. 21), as inserted by section 54 of the Criminal Justice Act 1982, and with S.I. 1984/526.

“authorised officer” means a person (whether or not an officer of that Minister) who is authorised by the appropriate Minister, either generally or specially, to act in matters arising under these Regulations;

“cattle” means cows and heifers;

“the Commission Regulation” means Commission Regulation (EEC) No. 1244/82 laying down detailed rules implementing the system of premiums for maintaining suckler cows⁽⁴⁾ as amended by Commission Regulation (EEC) No. 2754/82⁽⁵⁾, Commission Regulation (EEC) No. 1709/83⁽⁶⁾, Commission Regulation (EEC) No. 1588/87⁽⁷⁾, Commission Regulation (EEC) No. 2870/88⁽⁸⁾, Commission Regulation (EEC) No. 1662/89⁽⁹⁾, Commission Regulation (EEC) No. 2731/89⁽¹⁰⁾ and Commission Regulation (EEC) No. 2079/90⁽¹¹⁾;

“Community premium” means the premium for maintaining suckler cows which is payable under Article I of the Council Regulation;

“control measures” means the administrative checks and on-farm inspections which each Member State is required to carry out under Article 4 of the Commission Regulation;

“the Council Regulation” means Council Regulation (EEC) No. 1357/80 introducing a system of premiums for maintaining suckler cows⁽¹²⁾ as amended by Council Regulation (EEC) No. 1417/81⁽¹³⁾, Council Regulation (EEC) No. 1198/82⁽¹⁴⁾, Council Regulation (EEC) No. 3802/85⁽¹⁵⁾, Council Regulation (EEC) No. 467/87⁽¹⁶⁾, Council Regulation (EEC) No. 573/89⁽¹⁷⁾ and Council Regulation (EEC) No. 1187/90⁽¹⁸⁾;

“premium” means the Community premium and the additional premium;

“specified record” means any record which is required to be kept or preserved by virtue of regulation 5;

“specified successor” means a person who has given an undertaking to the appropriate Minister in respect of the obligations of his predecessor in accordance with Article 4a(6) of the Commission Regulation.

(2) Other expressions used in these Regulations have, in so far as the context admits, the same meanings as in the Council Regulation and the Commission Regulation.

(3) In these Regulations any reference to a numbered regulation shall be construed as a reference to the regulation so numbered in these Regulations.

Appointment of competent authority

3. For the purpose of the Council Regulation and the Commission Regulation the competent authority is the appropriate Minister.

(4) OJ No. L 143, 20.5.82, p.20.

(5) OJ No. L 291, 15.10.82, p.13.

(6) OJ No. L 166, 25.6.83, p.16.

(7) OJ No. L 146, 6.6.87, p.26.

(8) OJ No. L 257, 17.9.88, p.23.

(9) OJ No. L 163, 14.6.89, p.11.

(10) OJ No. L 263, 9.9.89, p.13.

(11) OJ No. L 190, 21.7.90, p.15.

(12) OJ No. L 140, 5.6.80, p. 1.

(13) OJ No. L 142, 28.5.81, p.4.

(14) OJ No. L 140, 20.5.82, p.28.

(15) OJ No. L 367, 31.12.85, p. 35.

(16) OJ No. L 48, 17.2.87, p.1.

(17) OJ No. L 63, 7.3.89, p.3.

(18) OJ No. L 119, 15.5.90, p.34.

Additional premium

4.—(1) The appropriate Minister may make a grant by way of additional premium to an applicant—

- (a) who has applied for and is entitled to receive a Community premium, and
- (b) who makes an application for such additional premium in such form as the Minister may require.

(2) The amount of such additional premium shall be determined in accordance with the Schedule to these Regulations.

(3) An application for a Community premium may be treated as if it were also an application for an additional premium and, subject to Article 1a of the Commission Regulation (which provides for a reduction in the Community premium when the application is lodged within the period specified in that Article), such an application shall be lodged with the appropriate Minister annually within the period specified in Article 1 (1) of that Regulation.

(4) The additional premium shall be payable subject to, and be reducible or recoverable under, the same conditions as are specified, in relation to the Community premium, in the Council Regulation and the Commission Regulation.

Keeping and preservation of records

5.—(1) An applicant shall preserve for a period of four years from the relevant date any bill, account, receipt, voucher or other record relating to—

- (a) the number of cattle kept on his holding⁽¹⁹⁾ during the period of six months following that date, and
- (b) any transaction concerning cattle, milk or milk products carried out by him at that date and during the period of twelve months following that date.

(2) A specified successor shall preserve for a period of four years from the relevant date any bill, account, receipt, voucher or other record relating to—

- (a) the number of cattle kept on his holding during the period beginning with the relevant date and ending with a date which is six months following the date (as notified to him, at his request, by the appropriate Minister) on which the application of his predecessor was lodged, and
- (b) any transaction concerning cattle, milk or milk products carried out by him during the period beginning with the relevant date and ending with a date which is twelve months following the date (as notified to him, at his request, by the appropriate Minister) on which the application of his predecessor was lodged.

(3) Without prejudice to the generality of the provisions of paragraphs (1) and (2) above, an applicant who may qualify for a premium under Article 2a of the Council Regulation or a specified successor of such an applicant shall either—

- (a) keep and preserve for a period of four years from the relevant date a special register recording the identification numbers of the suckler cows for which such application was made, or
- (b) preserve for such a period any record which he has kept under Article 9(1) of the Bovine Animals (Identification, Marking and Breeding Records) Order 1990⁽²⁰⁾, provided that the suckler cows for which such application was made are clearly distinguished from the other dams⁽²¹⁾ recorded in such record.

⁽¹⁹⁾ Article 5(3) of the Council Regulations defines “holding”.

⁽²⁰⁾ S.I. 1990/1867.

⁽²¹⁾ The term “dam” is defined in article 2 of S.I. 1990/1867.

(4) In this regulation “relevant date” means, in relation to an applicant, the date on which his application was lodged with the appropriate Minister and, in relation to a specified successor, the date on which his predecessor’s holding was transferred to him.

Powers of authorised officers

6.—(1) An authorised officer may at all reasonable hours and on producing, if so required, some duly authenticated document showing his authority, exercise the powers specified in this regulation for the purposes of—

- (a) carrying out any control measure, or
- (b) ascertaining whether an offence under regulation 9(2) has been or is being committed.

(2) An authorised officer may enter any land, other than land used only as a dwelling, which is, or which such officer has reasonable cause to believe to be, a holding occupied by, or in the possession of, an applicant or specified successor.

(3) An authorised officer who has entered any land by virtue of this regulation may—

- (a) inspect and verify the total area of land farmed by an applicant or by a specified successor, and
- (b) inspect and count any cattle on that land.

(4) An authorised officer entering any land by virtue of this regulation may take with him such other persons as he considers necessary.

(5) An authorised officer may—

- (a) require an applicant or specified successor or an employee, servant or agent of an applicant or specified successor to produce any specified record and to supply such additional information in that person’s possession or under his control relating to an application for premium as the authorised officer may reasonably request;
- (b) inspect any such specified record and, where any such record is kept by means of a computer, have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with that specified record;
- (c) require that copies of, or extracts from, any specified record be produced;
- (d) retain any such specified record which he has reason to believe may be required as evidence in proceedings under these Regulations and, where any such record is kept by means of a computer, require it to be produced in a form in which it may be taken away.

Assistance to authorised officers

7. An applicant or specified successor or an employee, servant or agent of an applicant or specified successor shall give to an authorised officer such assistance as the authorised officer may reasonably request so as to enable the authorised officer to exercise any power conferred under regulation 6 and in particular, in relation to any cattle, shall arrange for the collection, penning and securing of such cattle, if so requested.

Recovery of premium

8.—(1) Where, in relation to an application for premium, an applicant or an employee, servant or agent of an applicant—

- (a) makes a statement which is untrue or misleading in a material respect; or
- (b) furnishes to the appropriate Minister any inaccurate information,

the appropriate Minister shall be entitled to recover on demand from the applicant the whole or any part of any premium paid to him.

(2) Where an applicant—

- (a) having given an undertaking under Article 2(2) or 2a(2) of the Council Regulation, under Article 1(2) of the Commission Regulation or under paragraph 8(b) of the Schedule to these Regulations, fails in any way to comply with that undertaking;
- (b) fails to satisfy the appropriate Minister with regard to the matters specified in Article 2(1) or 2a(1) of the Council Regulation;
- (c) intentionally obstructs an authorised officer acting in exercise of the powers conferred upon him by regulation 6 or a person accompanying such authorised officer and acting under his instructions; or
- (d) fails without reasonable excuse to comply with a request made by an authorised officer under regulation 7,

the appropriate Minister shall be entitled to recover on demand from the applicant the whole or any part of any premium paid to him.

(3) Where, in relation to an application for premium, a specified successor or an employee, servant or agent of a specified successor—

- (a) makes a statement which is untrue or misleading in a material respect; or
- (b) furnishes to the appropriate Minister any inaccurate information,

the appropriate Minister shall be entitled to recover on demand from the specified successor the whole or any part of any premium paid to his predecessor.

(4) Where a specified successor—

- (a) fails to satisfy the appropriate Minister with regard to the matters specified in Article 4a(6) of the Commission Regulation;
- (b) intentionally obstructs an authorised officer acting in exercise of the powers conferred upon him by regulation 6 or a person accompanying such authorised officer and acting under his instructions; or
- (c) fails without reasonable excuse to comply with a request made by an authorised officer under regulation 7,

the appropriate Minister shall be entitled to recover on demand from that specified successor the whole or any part of any premium paid to his predecessor.

(5) Where a person intentionally obstructs an authorised officer acting in exercise of the powers conferred upon him by regulation 6, or a person accompanying such authorised officer and acting under his instructions, or fails without reasonable excuse to comply with a request made by an authorised officer under regulation 7, the appropriate Minister shall be entitled—

- (a) where such person was at the time of such obstruction or failure an employee, servant or agent of an applicant, to recover on demand from that applicant the whole or any part of any premium paid to that applicant;
- (b) where such person was at the time of such obstruction or failure an employee, servant or agent of a specified successor, to recover on demand from that specified successor an amount equal to the whole or any part of any premium paid to his predecessor.

(6) Where the appropriate Minister is entitled under any preceding paragraph of this regulation to recover from any person any payment of premium, the appropriate Minister may in addition recover from that person interest on the amount of that payment, calculated at the rate of one percentage point above the sterling three months London Interbank Offered Rate on a day to day basis from the

date when that payment was made to that person or his predecessor (as the case may be) to the date of its recovery by the appropriate Minister.

Offences and penalties

9.—(1) If any person—

- (a) intentionally obstructs an authorised officer in the exercise of a power conferred by regulation 6; or
- (b) fails without reasonable excuse to comply with a request made under regulation 7,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) If any person for the purposes of obtaining for himself or any other person the whole or any part of any premium or in purported compliance with any requirement imposed in accordance with regulation 5—

- (a) furnishes information which he knows to be false or misleading in a material particular; or
- (b) recklessly furnishes information which is false or misleading in a material particular,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Proceedings in England and Wales for an offence under paragraphs (1) or (2) above may be brought within a period of six months from the date on which evidence sufficient in the opinion of the appropriate Minister to justify proceedings comes to his knowledge, and in any case within twelve months from the commission of the offence.

(4) Summary proceedings in Scotland for an offence under paragraphs (1) or (2) above may be commenced within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings comes to his knowledge, and in any case within twelve months from the commission of the offence, and proceedings shall be deemed to be commenced on the date on which a warrant to apprehend or to cite the accused is granted, if such a warrant is executed without undue delay.

(5) A certificate purporting to be signed—

- (a) for the purpose of paragraph (3) above, by or on behalf of the appropriate Minister, or
- (b) for the purposes of paragraph (4) above, by the prosecutor,

shall be conclusive evidence of the date on which evidence sufficient to justify proceedings came to his knowledge.

(6) Where an offence under this regulation which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) Where the affairs of a body corporate are managed by its members, the provisions of paragraph (6) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(8) In paragraphs (6) and (7) above the references to a “body corporate” include references to a partnership in Scotland and, in relation to such partnership, any reference to a director or other officer of a body corporate is a reference to a partner.

Revocation

10. The Suckler Cow Premium Regulations 1980(22), the Suckler Cow Premium (Amendment) Regulations 1980(23), the Suckler Cow Premium (Amendment) (No.2) Regulations 1980(24) and the Suckler Cow Premium Regulations 1981(25) are hereby revoked.

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

L.S.

15th November 1991.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

20th November 1991

David Hunt
Secretary of State for Wales

14th November 1991

Strathclyde
Parliamentary Under Secretary of State, Scottish
Office

(22) S.I. 1980/1239.
(23) S.I. 1980/1770.
(24) S.I. 1980/1979.
(25) S.I. 1981/1700.

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

SCHEDULE

Regulation 4(2)

AMOUNT OF ADDITIONAL PREMIUM

1. In this Schedule—

“compensatory allowance for cattle” means the annual allowance as provided for in Title VI of Council Regulation (EEC) No. 2328/91 on improving the efficiency of agricultural structures⁽²⁶⁾ and which is payable in accordance with regulation 3(2) of the HLCA Regulations;

“the higher rate” means such amount which together with the Community premium payable to that applicant in respect of each suckler cow amounts to £51.69 per cow;

“the HLCA Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1984⁽²⁷⁾;

“less-favoured land” means an area of land of not less than three hectares which is—

(a) 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 75/268/EEC on mountain and hill farming and farming in certain less favoured areas⁽²⁸⁾ as amended by Council Directive 80/666/EEC⁽²⁹⁾ which list is contained in Council Directive 84/169/EEC⁽³⁰⁾, as amended by Commission Decision 91/25/EEC⁽³¹⁾; and

(b) within the area shaded blue or shaded pink on the designated maps as defined in regulation 2(1) of the HLCA Regulations;

“the lower rate” means such amount which together with the Community premium payable to that applicant in respect of each suckler cow amounts to £47.43 per cow;

“qualifying cows” means cows for which, in respect of the relevant year, the applicant is entitled to be paid a compensatory allowance for cattle and for this purpose it shall not be relevant whether the maximum amounts specified in regulation 3(2)(b)(i) or (4) of the HLCA Regulations or the provision contained in regulation 4(4) of those Regulations are applicable so as to reduce the number of such cows;

“relevant year” means the year, beginning 1st January, during which an application for premium is lodged.

2. The additional premium shall be payable in respect of the number of suckler cows for which an application for premium has been lodged in accordance with regulation 4.

3. Subject to paragraphs 4 to 7 below, the additional premium shall be payable at the lower rate.

4. Where—

(a) the applicant has, during the relevant year, applied for and is entitled to be paid a compensatory allowance for cattle, and

(b) the number of suckler cows for which an application for additional premium is lodged does not exceed twenty,

the additional premium shall be payable at the higher rate.

5. Where—

⁽²⁶⁾ OJ No. L 218, 6.8.91, p.1.

⁽²⁷⁾ S.I. 1984/2024, amended by S.I. 1985/2075, 1987/2129, 1990/308, 1991/392, 1991/1439.

⁽²⁸⁾ OJ No. L 128, 19.5.75, p. 1.

⁽²⁹⁾ OJ No. L 180, 14.7.80, p.34.

⁽³⁰⁾ OJ No. L 82, 26.3.84, p. 67.

⁽³¹⁾ OJ No. L 16, 22.1.91, p.25.

- (a) the applicant has, during the relevant year, applied for and is entitled to be paid a compensatory allowance for cattle, and
- (b) the number of suckler cows for which an application for additional premium is lodged exceeds twenty,

the additional premium shall be payable at the higher rate in respect of the number of such suckler cows which are, at the date of the applicant lodging that application, also qualifying cows.

6. Notwithstanding paragraphs 4 and 5 above, where the entire holding of the applicant is, at the date of his lodging his application for premium, less-favoured land, the additional premium shall be payable at the higher rate.

7. Notwithstanding paragraphs 4 and 5 above, where—

- (a) a part only of the holding of the applicant is, at the date of his lodging his application for premium, less-favoured land, and
- (b) the applicant has kept or agreed to keep for a minimum period of six months from that date a number of suckler cows or replacement in-calf heifers on that part of his holding which is less-favoured land and complies with the further requirements specified in paragraph 8 below,

the additional premium shall be payable at the higher rate in respect of that number of suckler cows or replacement in-calf heifers.

8. The further requirements for the purposes of paragraph 7(b) above are—

- (a) where the applicant has kept on the part of his holding which is less-favoured land a number of suckler cows or replacement in-calf heifers for the whole or any part of the minimum period of six months specified in that paragraph, he shall give to the appropriate Minister a written declaration confirming such fact; and
- (b) where the applicant has not kept on the part of his holding which is less-favoured land a number of suckler cows or replacement in-calf heifers for the whole of the minimum period of six months specified in that paragraph, he shall give to the appropriate Minister a written undertaking that he will do so.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to Great Britain, relate to the administration of the suckler cow premium scheme (“the scheme”) introduced by Council Regulation (EEC) No. 1357/80 (OJ No. L 140, 5.6.80, p. 1), as amended, (“the Council Regulation”) for the implementation of which detailed rules are laid down by Commission Regulation (EEC) No. 1244/82 (OJ No. L 143, 20.5.82, p.20), as amended. They also make provision, in accordance with Article 3(2) of the Council Regulation and pursuant to section 3 of the Agriculture and Forestry (Financial Provisions) Act 1991 (c. 33), for the payment out of national funds of a grant (“the additional premium”) to persons who under the scheme are entitled to receive a premium financed by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (“the Community premium”).

The Regulations—

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

- (a) appoint the appropriate Agriculture Ministers as the competent authority responsible for paying the additional premium and administering the scheme as regards both the Community premium and the additional premium in the various parts of Great Britain (regulation 3);
- (b) make provision as to the amount of the additional premium, the period within which applications may be lodged and the conditions subject to which such premium may be paid (regulation 4 and the Schedule);
- (c) impose requirements as to the keeping and preservation of records and other documents for the purpose of verifying entitlement to the premium (regulation 5);
- (d) confer on authorised officers powers of entry, inspection and retention of records or documents and require that such assistance be given them for that purpose as they may reasonably request (regulation 6 and 7);
- (e) specify circumstances in which the premium may be recovered, together with interest (regulation 8);
- (f) create offences and penalties (regulation 9).

The Suckler Cow Premium Regulations 1980 (S.I. 1980/1239), as amended, and the Suckler Cow Premium Regulations 1981 (S.I. 1981/1700) have been revoked. The Suckler Cow Premium Regulations 1982 (S.I. 1982/1683) remain in force.