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STATUTORY INSTRUMENTS

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**1992 No. 269**

**AGRICULTURE**

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

*Made - - - - 17th February 1992*  
*Laid before Parliament 17th February 1992*  
*Coming into force in accordance with regulation 1*

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the common agricultural policy of the European Economic Community, acting jointly, in exercise of the powers conferred upon 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 Hill Livestock (Compensatory Allowances) Regulations 1992, shall apply to Great Britain, and shall come into force the day after the day on which they are made.

**Interpretation**

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

“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;

“the appropriate Minister” means—

- (a) in relation to England, the Minister of Agriculture, Fisheries and Food, and
- (b) in relation to any other part of Great Britain, the Secretary of State;

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(1) S.I. 1972/1811.

(2) 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), section 52(4) of the Criminal Justice Act 1988 (c. 33) and S.I. 1984/447, and, as regards Scotland, with section 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (c. 21), as inserted by section 54 of the Criminal Justice Act 1982, S.I. 1984/526 and section 66 of the Criminal Justice (Scotland) Act 1987 (c. 41).

“approved breed” means any hardy breed or cross breed of sheep approved by the appropriate Minister 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;

“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 appropriate Minister, suitable for the purpose of bearing a calf during the year following the qualifying day;

“Council Regulation” means Council Regulation (EEC) No. 2328/91<sup>(3)</sup> on improving the efficiency of agricultural structures;

“designated maps” means—

- (a) in relation to England, the 3 volumes of maps numbered 1 to 3, each such volume being marked “volume of maps of less-favoured farming areas in England” and with the number of the volume, dated 20th May 1991, signed and sealed by the Minister of Agriculture, Fisheries and Food and deposited at the offices of the Ministry of Agriculture, Fisheries and Food at Nobel House, 17 Smith Square, London SW1P 3HX;
- (b) in relation to Wales, the 2 volumes of maps numbered 1 and 2, both volumes being marked “volume of maps of less-favoured farming areas in Wales” and with the number of the volume, dated 20th May 1991, signed by the Secretary of State for Wales and deposited at the offices of the Welsh Office Agriculture Department at Trawsgoed, Aberystwyth, DyfedSY23 4HT;
- (c) in relation to Scotland, the 4 maps numbered 1 to 4, each such map being marked “map of less-favoured farming areas in Scotland” and with the number of the map, dated 15th May 1991, signed by the Secretary of State for Scotland and deposited at the offices of the Scottish Office Agriculture and Fisheries Department at Pentland House, 47 Robb’s Loan, Edinburgh EH14 1TW;

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

- (a) which is, in the opinion of the appropriate Minister, 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 appropriate Minister, 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 Economic 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—

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(3) OJ No. L218, 6.8.91, p.1.

(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(4) on mountain and hill farming and farming in certain less-favoured areas as amended by Council Directive 80/666/EEC(5), which list is contained in Council Directive 84/169/EEC(6) as amended by Commission Decision 91/25/EEC(7), and

(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;

“hill sheep land” in relation to Scotland means severely disadvantaged land suitable for use for the maintenance of sheep of a hardy breed, but not of sheep of other breeds;

“livestock unit” means a 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 appropriate Minister, maintained and managed in accordance with sound husbandry practice;

“the qualifying day” means, in respect of any year in which a compensatory allowance maybe 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 appropriate Minister, maintained primarily for the purpose of breeding and rearing calves; and

(c) comprises, in the opinion of the appropriate Minister, 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 appropriate Minister 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 1984 Regulations, the Hill Livestock (Compensatory Allowances) Regulations 1979(8) or the Hill Livestock (Compensatory Allowances) Regulations 1975(9); 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;

“retirement pension” means a category A and category B pension within the meaning of section 12(1)(f) of the Social Security Act 1975(10) ; a category C and category D pension

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(4) OJ No. L128, 19.5.75, p.1.

(5) OJ No. L180, 14.7.80, p.34.

(6) OJ No. L82, 26.3.84, p.67.

(7) OJ No. L16, 22.1.91, p.25.

(8) S.I. 1979/1748, amended by S.I. 1980/2028, 1981/1843, 1982/1886 and revoked by S.I. 1984/2024.

(9) S.I. 1975/2210, amended by S.I. 1976/1203, 1977/1960, 1979/941 and revoked by S.I. 1979/1748.

(10) 1975 c. 14; section 12(1)(f) was amended by the Social Security Pension Act 1975 (c. 60), Schedule 4, paragraph 37.

within the meaning of section 34(1)(e) of that Act; or graduated retirement benefit as referred to in Schedule 1 to the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978<sup>(11)</sup> ;

“severely disadvantaged land” means—

- (a) the land shown coloured pink on the designated maps, being land—
  - (i) which is, in the opinion of the appropriate Minister, 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 appropriate Minister, severely restricted to its range by, or by any combination of, soil, relief, aspect or climate, or
- (b) land situated in the Isles of Scilly;

“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 appropriate Minister substantially all, of the ewes comprised in the flock are of an approved breed, and which—

- (a) in England and Wales is maintained on severely disadvantaged land or on severely disadvantaged land and other land used with it;
- (b) in Scotland is maintained or substantially maintained on hill sheep land;

“the 1984 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1984<sup>(12)</sup> .

(2) Where in Scotland any agricultural unit consists in part only of eligible land, that land or any part thereof shall be deemed for the purposes of these Regulations not to be eligible land unless, in the opinion of the appropriate Minister, such land or such part thereof would be suitable to be dealt with as a separate unit which is capable, having regard to the number of other animals normally grazed thereon, of maintaining a regular breeding herd or a qualified flock.

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

### **Compensatory allowances**

**3.—**(1) Subject to the provisions of these Regulations, the appropriate Minister 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 appropriate Minister 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 or the 1984 Regulations 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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<sup>(11)</sup> S.I. 1978/393.

<sup>(12)</sup> S.I. 1984/2024, amended by S.I. 1985/2075, 1987/2129, 1990/308, 1991/392 and 1991/1439, and revoked, insofar as they applied to Northern Ireland, by S.R. (N.I.) 1987 No. 92.

- (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) below 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) below (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) above 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 regulation 5(2)(c) below 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) above 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) above, 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 appropriate Minister 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 appropriate Minister 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 appropriate Minister, be in accordance with sound husbandry practice.

(2) Where, in the opinion of the appropriate Minister, 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 appropriate Minister 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 appropriate Minister may determine as the number which he 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 appropriate Minister may determine, disregarding—
  - (i) any seasonal variation in number, and
  - (ii) any losses which he 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 appropriate Minister, 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 appropriate Minister may determine;
- (c) the number of breeding cows which the appropriate Minister determines to be the number which the land on which the herd was grazed and maintained in the year preceding that day was, in his 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 ewes in a qualified flock 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 appropriate Minister, be in accordance with sound husbandry practice.

(2) Subject to paragraph (1) above, 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 appropriate Minister may determine as the number of ewes which he is satisfied has 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 appropriate Minister may determine, disregarding—
  - (i) any seasonal variation in number, and
  - (ii) any losses which he 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 appropriate Minister, 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 appropriate Minister 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 appropriate Minister 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) above or which is relevant afforested land;
- (d) the number of ewes which the appropriate Minister determines to be the number which the land on which the flock was grazed and maintained in the year preceding that day was, in his 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 a compensatory allowance by article 19(a) of the Council Regulation.

#### **Power of appropriate Minister to apportion eligible land in certain cases**

6. Where it appears to the appropriate Minister 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, under the foregoing provisions of these Regulations, apportion that land among the occupiers or former occupiers thereof as he thinks reasonable in the circumstances.

#### **Applications for compensatory allowances**

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

(2) A person authorised by the appropriate Minister 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) above, 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) above, which has not been released in accordance with regulation 8 above, 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 appropriate Minister in accordance with regulation 7(2)(c), (e) or (f), 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 level 5 on the standard scale.

#### **Revocations and transitional provision**

- 11.—(1) The Regulations listed in the Schedule hereto are hereby revoked.
- (2) In determining the amount of a compensatory allowance payable to any person under these Regulations in respect of the year 1992, the appropriate Minister shall take into account any compensatory allowance payable or paid to that person under the 1984 Regulations as if it were payable or paid under these Regulations.

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

17th February 1992.

*John Selwyn Gummer*  
Minister of Agriculture, Fisheries and Food

17th February 1992

*Strathclyde*  
Parliamentary Under Secretary of State, Scottish  
Office

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## SCHEDULE

Regulation 11

## REVOCATIONS

<i>Regulations revoked</i>	<i>References</i>
The Hill Livestock (Compensatory Allowances) Regulations 1984	S.I. <a href="#">1984/2024</a>
The Hill Livestock (Compensatory Allowances) (Amendment) Regulations 1985	S.I. <a href="#">1985/2075</a>
The Hill Livestock (Compensatory Allowances) (Amendment) Regulations 1987	S.I. <a href="#">1987/2129</a>
The Hill Livestock (Compensatory Allowances) (Amendment) Regulations 1991	S.I. <a href="#">1991/392</a>
The Hill Livestock (Compensatory Allowances) (Amendment) (No. 2) Regulations 1991	S.I. <a href="#">1991/1439</a>

**EXPLANATORY NOTE**

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

These Regulations consolidate with amendments the Hill Livestock (Compensatory Allowances) Regulations 1984, 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. They extend to Great Britain.

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 designated maps and which is “disadvantaged” or “severely disadvantaged”; the maps are available for inspection during normal office hours at the addresses specified in the definition of “designated maps” (regulation 2(1)). 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(1));
- (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) references to the stocking limits for livestock contained in Council Regulation ([EEC](#)) [2328/91](#) are introduced (regulations 4 and 5);

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- (d) the powers of entry are enlarged (regulation 7) and the level of fine applicable in relation to offences under the Regulations is linked to the standard scale (regulation 10);
- (e) a transitional provision in relation to the calculation of allowances for 1992 is introduced to prevent double payment (regulation 11).