

1999 No. 3316

AGRICULTURE

**The Hill Livestock (Compensatory Allowances) Regulations
1999**

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| <i>Made</i> | - - - - - | <i>15th December 1999</i> |
| <i>Laid before Parliament</i> | | <i>15th December 1999</i> |
| <i>Coming into force-</i> | - - - | <i>16th December 1999</i> |

The Minister of Agriculture, Fisheries and Food, being a Minister 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, acting in exercise of the powers conferred upon him by the said section 2(2) and by section 57(1) of the Scotland Act 1998^(c), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Title and commencement

1. These Regulations may be cited as the Hill Livestock (Compensatory Allowances) Regulations 1999, and shall come into force on 16th December 1999.

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 authority” means—

(a) the Minister of Agriculture, Fisheries and Food, where—

- (i) the claimant maintains breeding cows or ewes on eligible land which forms part of a holding for which an area aid application was submitted by him to that Minister in 1999, or
- (ii) no area aid application was submitted by the claimant to that Minister in 1999, but the claimant maintains breeding cows or ewes on eligible land which forms part of a holding for which an area aid application was submitted to that Minister in 1999 by another person;

(b) the National Assembly for Wales, where—

- (i) the claimant maintains breeding cows or ewes on eligible land which forms part of a holding for which an area aid application was submitted by him to the Secretary of State for Wales in 1999, or

(a) S.I. 1972/1811. The power of the Minister of Agriculture, Fisheries and Food to make, as a Minister designated in relation to the common agricultural policy of the European Community, regulations which extend to Wales is confirmed by article 3(4) of the European Communities (Designation) (No. 3) Order 1999 (S.I. 1999/2788).

(b) 1972 c. 68.

(c) 1998 c. 46.

- (ii) no area aid application was submitted by the claimant to the Secretary of State for Wales in 1999, but the claimant maintains breeding cows or ewes on eligible land which forms part of a holding for which an area aid application was submitted to the Secretary of State for Wales in 1999 by another person;

“area aid application” has the same meaning as in Article 6 of Council Regulation 3508/92;

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

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

- (a) has borne a calf on or before the day on which a claim is lodged for a compensatory allowance for it or, in the case of a claim accepted as valid pursuant to regulation 11(4), had borne a calf on or before the day on which the claim was received by the appropriate authority, and is, or was, capable of lactation on that day; or
- (b) has not yet borne a calf but—
 - (i) has been added to the herd to replace, for the purposes of an application for the premium for maintaining suckler cows made in 1999 pursuant to regulation 3 of the Suckler Cow Premium Regulations 1993(a), an animal included in that application,
 - (ii) was in calf when it was so added to the herd, and
 - (iii) is otherwise eligible for the said premium;

“the 1998 Cattle Regulations” means the Cattle Identification Regulations 1998(b);

“claimant” means a person who has made a claim for a compensatory allowance;

“Commission Regulation 2385/91” means Commission Regulation (EEC) No. 2385/91 laying down detailed rules for certain special cases regarding the definition of sheepmeat and goatmeat producers and producer groups(c);

“Commission Regulation 1750/1999” means Commission Regulation (EC) No. 1750/1999 laying down detailed rules for the application of Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF)(d);

“Commission Regulation 2603/1999” means Commission Regulation (EC) No. 2603/1999 laying down rules for the transition to the rural development support provided for by Council Regulation (EC) No. 1257/1999(e);

“compensatory allowance” means a compensatory allowance payable in respect of the Scheme Year on the basis of livestock numbers for breeding cows or ewes in accordance with Article 7 of Commission Regulation 2603/1999;

“Council Regulation 3493/90” means Council Regulation (EEC) No. 3493/90 laying down general rules for the grant of premiums to sheepmeat and goatmeat producers(f);

“Council Regulation 3508/92” means Council Regulation (EEC) No. 3508/92 establishing an integrated administration and control system for certain Community aid schemes(g);

“Council Regulation 1257/1999” means Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations(h);

(a) S.I. 1993/1441, amended by S.I. 1994/1528, 1995/15, 1446, 1996/1488, 1997/249.

(b) S.I. 1998/871, amended by S.I. 1998/1796, 2969, 1999/1339.

(c) OJ No. L219, 7.8.91, p. 15, as last amended by Commission Regulation (EC) No. 2143/96 (OJ No. L286, 8.11.96, p. 10).

(d) OJ No. L214, 13.8.1999, p. 31.

(e) OJ No. L316, 10.12.1999, p. 26.

(f) OJ No. L337, 4.12.90, p. 7, as last amended by Council Regulation (EC) No. 233/94 (OJ No. L30, 3.2.94, p. 9).

(g) OJ No. L355, 5.12.92, p. 1, as last amended by Council Regulation (EC) No. 1036/1999 (OJ No. L127, 21.5.1999, p. 4).

(h) OJ No. L160, 26.6.1999, p. 80.

“designated maps” means–

- (a) in relation to England, the three volumes of maps numbered 1 to 3, each 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 two volumes of maps numbered 1 and 2, each volume 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 National Assembly for Wales Agriculture Department at Cathays Park, Cardiff CF1 3NQ; and
- (c) in relation to Scotland, the four maps numbered 1 to 4, each 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 Executive Rural Affairs Department at Pentland House, 47 Robb’s Loan, Edinburgh EH14 1TW;

“disadvantaged land” (except in the expression “severely disadvantaged land”) means–

- (a) land shown coloured blue on the designated maps for England and Wales; and
- (b) land shown coloured blue or pink on the designated maps for Scotland which is in the opinion of the appropriate authority–
 - (i) 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 that land, and
 - (ii) land on which agricultural production is restricted (but not severely restricted) in its range by soil, relief, aspect or climate;

“eligible land” means an area of land of not less than three hectares which is disadvantaged land or severely disadvantaged land;

“the Enforcement Regulations” means the Hill Livestock (Compensatory Allowances) (Enforcement) Regulations 1999(a);

“ewe” means a female sheep which is at least one year old on 1st January 2000 and is comprised in a qualified flock;

“forage area” means land used to graze or feed livestock which was included as such in a valid area aid application submitted in 1999;

“hardy breed or hardy cross-breed” means a breed or cross-breed of sheep which is in the opinion of the appropriate authority suitable for breeding and rearing on land where the severity of the permanent natural handicaps affecting the breeding and rearing of sheep on it is greater than that affecting the breeding and rearing of sheep on severely disadvantaged land generally;

“holding” means all the production units managed by a claimant situated within the United Kingdom;

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

“livestock unit” means a unit of measurement of livestock numbers, and the following constitute a single livestock unit–

- (a) one breeding cow;
- (b) one female bovine animal used to replace a breeding cow in accordance with regulation 9(1);
- (c) 6.67 ewes; or
- (d) 6.67 female sheep (not being ewes) used to replace ewes in accordance with regulation 9(3);

(a) S.I. 1999/3315.

“the 1996 Order” means the Sheep and Goats (Records, Identification and Movement) Order 1996**(a)**;

“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, and “overgrazed” shall be construed accordingly;

“production unit” has the same meaning as in Council Regulation 3508/92;

“qualified flock” means a flock of sheep which is usually kept on a production unit which includes disadvantaged land or severely disadvantaged land and which is, in the opinion of the appropriate authority—

- (a) maintained primarily for the purpose of breeding and rearing lambs; and
- (b) maintained and managed in accordance with sound husbandry practice,

and includes a specially qualified flock;

“regular breeding herd” means a herd of cattle which is usually kept on a production unit which includes disadvantaged land or severely disadvantaged land and which is, in the opinion of the appropriate authority—

- (a) maintained primarily for the purpose of breeding and rearing calves; and
- (b) maintained and managed in accordance with sound husbandry practice;

“the 1975 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1975**(b)**;

“the 1979 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1979**(c)**;

“the 1984 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1984**(d)**;

“the 1994 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1994**(e)**;

“the 1996 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1996**(f)**;

“relevant afforested land” means land which in the opinion of the appropriate authority 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 the land under the 1975 Regulations, the 1979 Regulations or the 1984 Regulations before the date when the conversion to forest was completed; but land shall cease to be relevant afforested land for the purposes of these Regulations 15 years after the date on which such conversion was completed;

“retention period” means the minimum period for which the claimant must maintain animals for which a compensatory allowance is claimed, which is—

- (a) in relation to breeding cows, where a claim for a compensatory allowance for those breeding cows is lodged in accordance with regulation 11(1), three months commencing on the day after that on which the claim is lodged;
- (b) in relation to breeding cows, where a claim for a compensatory allowance for those breeding cows is received by the appropriate authority before the day on which these Regulations come into force, and accepted as valid pursuant to regulation 11(4), a period commencing on that day and expiring at the end of a three month period commencing on the day after that on which the claim was received; and
- (c) in relation to ewes, 100 days commencing on the last day provided for in regulation 11(2) for lodging a claim for a compensatory allowance for ewes;

(a) S.I. 1996/28.

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

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

(d) S.I. 1984/2024, amended by S.I. 1985/2075, 1987/2129, 1991/392, 1439 and revoked, insofar as they applied to Northern Ireland, by S.R. (N.I.) 1987 No. 92 and, insofar as they applied to Great Britain, by S.I. 1992/269.

(e) S.I. 1994/2740, amended by S.I. 1995/100, 1481, 2778, 1996/27 and revoked by S.I. 1996/1500.

(f) S.I. 1996/1500, amended by S.I. 1997/33, 1998/206, 1999/375.

“retirement pension” means a category A or category B pension within the meaning of section 20(1)(f) of the Social Security Contributions and Benefits Act 1992^(a), a category C or category D pension within the meaning of section 63(f) of that Act, or graduated retirement benefit as referred to in section 62 of that Act;

“Scheme Year” means the calendar year 2000;

“severely disadvantaged land” means—

- (a) land shown coloured pink on the designated maps for England and Wales and land situated in the Isles of Scilly; and
- (b) land shown coloured pink on the designated maps for Scotland which is in the opinion of the appropriate authority—
 - (i) 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 that land, and
 - (ii) land on which agricultural production is severely restricted in its range by soil, relief, aspect or climate;

“specially qualified flock” means a qualified flock—

- (a) in which all or, in the opinion of the appropriate authority, substantially all, of the ewes comprised in the flock are of any hardy breed or hardy cross-breed;
- (b) in which the ewes are in the opinion of the appropriate authority maintained in three distinct age groups; and
- (c) which in England and Wales is maintained on severely disadvantaged land or on such land and other land used with it and in Scotland is maintained or substantially maintained on severely disadvantaged land suitable for use for the maintenance of sheep of a hardy breed or a hardy cross-breed, but not of other breeds;

“unsuitable supplementary feeding methods” means providing supplementary feed (other than to maintain livestock during abnormal weather conditions) in such a manner as to result in damage to vegetation through excessive trampling or poaching of the land by animals or excessive rutting by vehicles;

“usual good farming practices” means the farming practices described in Article 14(2) of Council Regulation 1257/1999 and defined in Article 28 of Commission Regulation 1750/1999.

(2) Where in Scotland a production unit consists in part only of disadvantaged land or severely disadvantaged land, that part shall not be regarded as disadvantaged land or severely disadvantaged land, as the case may be, unless in the opinion of the appropriate authority it would be suitable to be dealt with as a separate unit which is capable, having regard to the number of other animals normally grazed on it, of maintaining a regular breeding herd or a qualified flock.

(3) Any reference in these Regulations to a Community instrument is a reference to that instrument as amended on the date on which these Regulations are made.

(4) Any reference in these Regulations to a numbered regulation (with no corresponding reference to a specific instrument) is a reference to the regulation so numbered in these Regulations and any reference to the Schedule is a reference to the Schedule to these Regulations.

Payment of compensatory allowances

3.—(1) The appropriate authority may pay in respect of the Scheme Year to any person who maintains breeding cows or ewes on eligible land a compensatory allowance for each breeding cow and ewe which he owns, or leases under a formal leasing arrangement, throughout the retention period applicable to the animal concerned.

(a) 1992 c. 4.

(2) A compensatory allowance may be paid only where the eligible land on which the claimant maintains breeding cows or ewes forms part of a holding for which a valid area aid application was submitted in 1999.

Rates of payment

4.—(1) The compensatory allowance for breeding cows shall be paid at the rates set out in Part I of the Schedule.

(2) The compensatory allowance for ewes shall be paid at the rates set out in Part II of the Schedule.

(3) The total amount of compensatory allowances which may be paid to a claimant shall not exceed the maximum specified in Part III of the Schedule.

Continued use of eligible land

5. A compensatory allowance may be paid to a claimant not in receipt of a retirement pension only if he has given a written undertaking, in such form as the appropriate authority may reasonably require, that he will, for a period of five years from the first payment of a compensatory allowance under these Regulations, the 1996 Regulations or the 1994 Regulations, continue to use eligible land for agriculture.

Usual good farming practices

6. A compensatory allowance may be paid only if, in the opinion of the appropriate authority, the claimant applies usual good farming practices on the eligible land on which he maintains cows or ewes.

Provisions with respect to breeding cows

7.—(1) Subject to the following paragraphs of this regulation, the number of breeding cows for which a compensatory allowance may be paid to a claimant who has made a valid claim for compensatory allowances for breeding cows in respect of the Scheme Year shall be the least of—

- (a) the number of breeding cows included in that claim;
- (b) the number of breeding cows which were owned by the claimant, or leased by him under a formal leasing arrangement, throughout the retention period applicable to breeding cows;
- (c) the number of breeding cows which would, in the opinion of the appropriate authority, be required in order to produce the number of calves actually produced by the claimant's regular breeding herd—
 - (i) in the twelve months preceding the date on which the claim is lodged, or
 - (ii) in the case of a claim accepted as valid pursuant to regulation 11(4), in the twelve months preceding the day on which the claim was received by the appropriate authority, or
 - (iii) in the case of a regular breeding herd newly established or re-established in the twelve months referred to in sub-paragraph (i) or (ii), in such other period as the appropriate authority may determine; and
- (d) the number of breeding cows which, when added to the number of ewes which are the subject of a claim for compensatory allowances made by the claimant in respect of the Scheme Year, is equivalent to 1.4 livestock units for each hectare of the claimant's eligible land which is either forage area or relevant afforested land.

(2) A compensatory allowance shall not be paid for any breeding cow the use of which for breeding would not, in the opinion of the appropriate authority, be in accordance with sound husbandry practice.

(3) Where a claimant uses unsuitable supplementary feeding methods the appropriate authority may, in accordance with paragraph (4), reduce or withhold the compensatory allowances for breeding cows otherwise payable to him.

(4) Where the claimant was not penalised under regulation 4 of the 1996 Regulations in 1999 for using unsuitable supplementary feeding methods, the compensatory allowances for breeding

cows otherwise payable to him may be reduced by 10%; where the claimant was so penalised in 1999, but not in 1998, the compensatory allowances for breeding cows otherwise payable to him may be reduced by 20%; and where the claimant was so penalised in 1999 and 1998, the compensatory allowances for breeding cows otherwise payable to him may be withheld.

(5) Where milk has been produced by a regular breeding herd in the twelve months preceding the day on which a claimant lodges a claim for compensatory allowances for any breeding cows in that herd, or, in the case of such a claim accepted as valid pursuant to regulation 11(4), in the twelve months preceding the day on which the claim was received by the appropriate authority, and that milk has been sold or used for the manufacture of milk products for sale, the number of breeding cows for which compensatory allowances may be paid to the claimant may be reduced by the number which would, in the opinion of the appropriate authority, have been required to produce that quantity of milk in those twelve months.

Provisions with respect to ewes

8.—(1) Subject to the following paragraphs of this regulation, the number of ewes for which a compensatory allowance may be paid to a claimant who has made a valid claim for compensatory allowances for ewes in respect of the Scheme Year shall be the least of—

- (a) the number of ewes included in that claim;
- (b) the number of ewes which were owned by the claimant, or leased by him under a formal leasing arrangement, throughout the retention period applicable to ewes;
- (c) the number of ewes which would, in the opinion of the appropriate authority, be required in order to produce the number of lambs actually produced by the claimant's qualified flock—
 - (i) in the twelve months preceding the date on which the claim is lodged, or
 - (ii) in the case of a claim accepted as valid pursuant to regulation 11(4), in the twelve months preceding the day on which the claim was received by the appropriate authority, or
 - (iii) in the case of a qualified flock newly established or re-established in the twelve months referred to in sub-paragraph (i) or (ii), in such other period as the appropriate authority may determine;
- (d) 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,included in the claimant's eligible land which is either forage area or relevant afforested land;
- (e) the number of ewes which, when added to the number of breeding cows which are the subject of a claim for compensatory allowances made by the claimant in respect of the Scheme Year, is equivalent to 1.4 livestock units for each hectare of the claimant's eligible land which is either forage area or relevant afforested land.

(2) A compensatory allowance shall not be paid for any ewe the use of which for breeding would not, in the opinion of the appropriate authority, be in accordance with sound husbandry practice.

(3) Where a claimant uses unsuitable supplementary feeding methods the appropriate authority may, in accordance with paragraph (4), reduce or withhold the compensatory allowances for ewes otherwise payable to him.

(4) Where the claimant was not penalised under regulation 5 of the 1996 Regulations in 1999 for using unsuitable supplementary feeding methods, the compensatory allowances for ewes otherwise payable to him may be reduced by 10%; where the claimant was so penalised in 1999, but not in 1998, the compensatory allowances for ewes otherwise payable to him may be reduced by 20%; and where the claimant was so penalised in 1999 and 1998, the compensatory allowances for ewes otherwise payable to him may be withheld.

Replacement animals

9.—(1) Subject to paragraph (2), any breeding cow included in a claim for compensatory allowances may be replaced before the end of the retention period by another breeding cow or by

a female bovine animal which has not yet borne a calf but which is in calf on the day of replacement, without calling into question the number of breeding cows which have been owned or leased throughout the retention period.

(2) A replacement pursuant to paragraph (1) must occur—

- (a) within twenty days of the replaced breeding cow leaving the regular breeding herd of which it formed part, or
- (b) before the end of the retention period,

whichever is the sooner.

(3) Subject to paragraphs (4) and (5), any ewe included in a claim for compensatory allowances may be replaced by another ewe or by another female sheep which will be at least one year old by the end of the retention period, without calling into question the number of ewes which have been owned or leased throughout the retention period.

(4) Where a ewe or another female sheep replaces a ewe which is a member of a specially qualified flock, the replacement animal must be of a hardy breed or hardy cross-breed.

(5) A replacement pursuant to paragraph (3) must occur—

- (a) within seven days of the replaced ewe leaving the qualified flock of which it formed part, or
- (b) before the end of the retention period,

whichever is the sooner.

Overgrazing

10.—(1) Subject to paragraph (4), where at any time in the twelve months preceding the first date for lodging claims pursuant to regulation 11(1) the appropriate authority formed the opinion that any parcel of land was being overgrazed, it may notify the occupier of the maximum number of breeding cows which may be grazed and maintained on that parcel in the Scheme Year.

(2) Subject to paragraph (4), where at any time in the twelve months preceding the first day for lodging claims pursuant to regulation 11(2) the appropriate authority formed the opinion that any parcel of land is being overgrazed, it may notify the occupier of the maximum number of ewes which may be grazed and maintained on that parcel in the Scheme Year.

(3) The maximum numbers referred to in paragraphs (1) and (2) shall be determined by taking account of the number of other animals likely to be grazed and maintained on the parcel concerned in the Scheme Year and having regard to such conditions as may be specified in the notification.

(4) Where the appropriate authority has previously issued a notification under paragraph (1) or paragraph (2) in relation to any parcel of land, it may issue a further such notification in relation thereto without having formed the opinion that it was being overgrazed.

(5) Where the appropriate authority has issued a notification under paragraph (1) or paragraph (2), no compensatory allowance shall be paid in respect of the Scheme Year for any breeding cow or ewe grazed and maintained in the Scheme Year on the land to which it relates in excess of the maximum number of breeding cows or ewes specified in the notification.

Claims for compensatory allowances

11.—(1) A claim for compensatory allowances in respect of the Scheme Year for breeding cows shall be lodged with the appropriate authority on or after the day on which these Regulations come into force, but not later than 20th December 1999.

(2) A claim for compensatory allowances in respect of the Scheme Year for ewes shall be lodged with the appropriate authority on or after the day on which these Regulations come into force, but not later than 4th February 2000.

(3) A claim for compensatory allowances shall be made in such form as the appropriate authority may reasonably require, and no person shall be entitled to make more than one such claim for breeding cows or ewes in respect of the Scheme Year, provided that, where a number of claims for compensatory allowances for breeding cows or ewes are made by persons who have in respect of that year made more than one area aid application but who are regarded as a single

farmer within the meaning of Article 1(4) of Council Regulation 3508/92, the claims concerned shall be deemed to be a single claim made by one person for the purposes of this paragraph.

(4) The appropriate authority may accept as valid claims for compensatory allowances in the form referred to in paragraph (3) which were received by it on or after 1st November 1999.

(5) Where the claimant is a producer group within the meaning of Article 1(2) of Council Regulation 3493/90 the claimant shall, in making a claim for compensatory allowances for ewes under this regulation, observe the signature formalities imposed by Article 2(1) of Commission Regulation 2385/91 in relation to the application referred to therein.

Late claims

12.—(1) Subject to paragraphs (2) and (3), if a claimant lodges a claim for compensatory allowances in respect of the Scheme Year later than the relevant closing date, the amount otherwise payable to him shall be reduced by one per cent for every working day later than that date that his claim is lodged.

(2) If a claim is lodged more than twenty-five days (whether or not working days) later than the relevant closing date, no compensatory allowances shall be paid to the claimant pursuant to that claim.

(3) Paragraphs (1) and (2) shall not apply if and to the extent that a claim is lodged later than the relevant closing date by reason of *force majeure*.

(4) In this regulation—

- (a) “the relevant closing date” means 20th December 1999 in the case of a claim for compensatory allowances for breeding cows and 4th February 2000 in the case of a claim for compensatory allowances for ewes;
- (b) “working day” means a day which is not a Saturday, a Sunday, a common law holiday in England and Wales, or a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971^(a);
- (c) “*force majeure*” means abnormal and unforeseeable circumstances outside the control of the claimant, the consequences of which could not have been avoided by the exercise of all due care by the claimant.

Movement of animals

13. Before a claimant moves any breeding cow or ewe included in his claim for compensatory allowances from the location given for it in the claim, he shall notify the appropriate authority in writing of the new location.

Release from undertaking

14. A claimant is by virtue of this regulation released from the undertaking referred to in regulation 5—

- (a) at the moment he first receives a retirement pension;
- (b) if he is prevented from continuing to discharge that undertaking by reason of any material circumstance beyond his control; or
- (c) if he ceases farming and at least three hectares of the eligible land last used by him for the grazing of animals continue to be used for agriculture.

Withholding or recovery of compensatory allowances

15.—(1) The appropriate authority may withhold or recover on demand the whole or any part of any compensatory allowance payable or paid to a claimant in respect of the Scheme Year in any of the following circumstances—

- (a) where the claimant fails to comply with the terms of an undertaking given by him pursuant to regulation 5, from which he has not been released by regulation 14;
- (b) where, in the opinion of the appropriate authority, the claimant has failed to apply usual good farming practices on the eligible land on which he maintains breeding cows or ewes;

(a) 1971 c. 80.

- (c) where the appropriate authority has issued to the claimant a notification under regulation 10(1) or (2) and is satisfied that a condition specified in that notification has been breached, or that more breeding cows or ewes than the maximum number specified in the notification have been grazed and maintained in the Scheme Year on the parcel of land to which it relates;
- (d) where the claimant fails to notify the appropriate authority in writing of the movement of a breeding cow or ewe, in accordance with regulation 13;
- (e) where the claimant, or an employee, servant or agent of the claimant, intentionally obstructs an authorised person, or a person accompanying an authorised person and acting under his instructions, from exercising any power conferred by regulation 4 of the Enforcement Regulations, or fails without reasonable excuse to comply with a requirement made by an authorised person under that regulation, or a request made by an authorised person under regulation 5 of the Enforcement Regulations.

(2) Where at any time during the Scheme Year the claimant fails to comply with regulation 29(3) and (5) of the 1998 Cattle Regulations, the appropriate authority may withhold or recover on demand the whole or any part of any compensatory allowance for breeding cows payable or paid to the claimant in respect of the Scheme Year.

(3) Where at any time during the Scheme Year the claimant fails to comply with article 4 or (where he is a sheepmeat producer for the purposes of Council Regulation 3493/90) paragraphs (1), (3), (4) or (5) of article 5 of the 1996 Order, the appropriate authority may withhold or recover on demand the whole or any part of any compensatory allowance for ewes payable or paid to the claimant in respect of the Scheme Year.

Rate of interest

16. Where the appropriate authority recovers the whole or any part of any compensatory allowance pursuant to regulation 15, unless the sum recovered was paid as a result of its own error, interest shall be charged thereon at the rate of one per cent above the sterling three months London Interbank Offered Rate on a day-to-day basis for the period from payment to recovery.

Approval of compensatory allowances by the European Commission

17. If the European Commission shall not approve, in accordance with Article 44(2) of Council Regulation 1257/1999, the payment of the compensatory allowances provided for in these Regulations, or shall approve their payment in part only, the appropriate authority may withhold, or recover on demand, any compensatory allowances payable or paid in respect of the Scheme Year, in full or to the extent that payment is not so approved, as the case may be.

Revocations and saving

18. The 1996 Regulations, the Hill Livestock (Compensatory Allowances) (Amendment) Regulations 1997(**a**), the Hill Livestock (Compensatory Allowances) (Amendment) Regulations 1998(**b**) and the Hill Livestock (Compensatory Allowances) (Amendment) Regulations 1999(**c**) shall cease to apply, except in relation to—

- (a) any compensatory allowances paid or payable since 31st December 1994; and
- (b) any statement or information referred to in regulation 14(c) of the 1996 Regulations (offence of making a false or misleading statement) which is made or furnished in, or in connection with, a claim for compensatory allowances accepted as valid pursuant to regulation 11(4).

Joyce Quin
Minister of State

15th December 1999

Ministry of Agriculture, Fisheries and Food

(a) S.I. 1997/33.
(b) S.I. 1998/206.
(c) S.I. 1999/375.

PART I

RATES OF PAYMENT FOR BREEDING COWS

| <i>Composition of eligible land</i> | <i>Payment for each breeding cow</i> |
|--|--|
| Disadvantaged land only | £36.69 |
| Severely disadvantaged land only | £73.39 |
| Disadvantaged land and severely disadvantaged land | £73.39 up to an amount calculated in accordance with the note below, and thereafter— £36.69 |

NOTE: Where the claimant's eligible land consists of disadvantaged land and severely disadvantaged land the amount up to which £73.39 is payable for each breeding cow shall be calculated according to the following formula—

$$A = (H \times £102.75) - E$$

where—

A is the said amount,

H is the total area in hectares of the severely disadvantaged land and any relevant afforested land occupied by the claimant, and

E is the total amount of compensatory allowances payable to the claimant in the Scheme Year for ewes of a hardy breed or hardy cross-breed comprised in a specially qualified flock.

PART II

RATES OF PAYMENT FOR EWES

1. For each ewe of a hardy breed or hardy cross-breed included in a specially qualified flock— £8.88
2. For ewes other than any referred to in paragraph 1—

| <i>Composition of eligible land</i> | <i>Payment for each ewe</i> |
|--|--|
| Disadvantaged land only | £4.09 |
| Severely disadvantaged land only | £4.64 |
| Disadvantaged land and severely disadvantaged land | £4.64 for a maximum number of ewes calculated in accordance with Note 1 below, up to an amount calculated in accordance with Note 2 below, and for each further ewe in excess of that maximum number, or when that amount has been reached— £4.09 |

NOTE 1: Where the claimant's eligible land consists of disadvantaged land and severely disadvantaged land the maximum number of ewes for which £4.64 is payable shall be calculated according to the following formula—

$$N = (H \times 6) - E$$

where–

N is the said maximum number,

H is the total area in hectares of the severely disadvantaged land and any relevant afforested land occupied by the claimant, and

E is the total amount of compensatory allowances payable to the claimant in the Scheme Year for ewes of a hardy breed or hardy cross-breed comprised in a specially qualified flock.

NOTE 2: Where the claimant's eligible land consists of disadvantaged land and severely disadvantaged land the amount up to which £4.64 is payable for each ewe shall be calculated according to the following formula–

$$A = (H \times £102.75) - C$$

where–

A is the said amount,

H represents the same area as in Note 1, and

C is the sum of the total amount represented by E in Note 1 and any compensatory allowances payable to the claimant in the Scheme Year at the rate of £73.39 for each breeding cow.

PART III

MAXIMUM PAYMENT OF COMPENSATORY ALLOWANCES

The sum of–

£60.85 for each hectare of disadvantaged land, and

£102.75 for each hectare of severely disadvantaged land,

which is either forage area or relevant afforested land.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 16th December 1999, provide for the administration of the Hill Livestock Compensatory Allowances Scheme in England and Wales in 2000. They re-enact, with modifications, the Hill Livestock (Compensatory Allowances) Regulations 1996, as amended. In addition to minor and drafting amendments, they introduce a requirement that farmers claiming compensatory allowances must apply usual good farming practices on their land (regulation 6).

The Regulations comply with Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund, Commission Regulation (EC) No. 1750/1999 laying down detailed rules for the application of Council Regulation (EC) No. 1257/1999 and Commission Regulation (EC) No. 2603/1999 laying down rules for the transition to the rural development support provided for by Council Regulation (EC) No. 1257/1999.

Compensatory allowances are paid for breeding cows and ewes on farms in the less-favoured farming areas in England and Wales, at the same rates as in 1999 (regulations 3 and 4(1) and (2), and Schedule, Parts I and II). There are limits on the number of animals for which allowances may be paid (regulations 7 and 8) and on the total amount a claimant may receive per hectare of his forage area (regulation 4(3) and Schedule, Part III).

The Regulations impose penalties for unsuitable supplementary feeding methods (regulations 7(3) and (4) and 8(3) and (4)) and for overgrazing (regulation 10). Regulation 15 provides for withholding or recovery of compensatory allowances where there is a breach of the rules of the Scheme.

Powers of enforcement and offences and penalties relating to the Scheme are contained in the Hill Livestock (Compensatory Allowances) (Enforcement) Regulations 1999 (S.I. 1999/3315).

No Regulatory Impact Assessment has been prepared in respect of these Regulations.

1999 No. 3316

AGRICULTURE

**The Hill Livestock (Compensatory Allowances) Regulations
1999**

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