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WELSH STATUTORY INSTRUMENTS

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**2002 No. 1806 (W.176)**

**AGRICULTURE, WALES**

**The Tir Mynydd (Wales) (Amendment) Regulations 2002**

Made - - - - 9th July 2002

Coming into force - - 10th July 2002

The National Assembly for Wales, being 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 Community, in exercise of the powers conferred on it by the said section 2(2), hereby makes the following Regulations:

**Title and commencement**

1. These Regulations may be cited as the Tir Mynydd (Wales) (Amendment) Regulations 2002 and shall come into force on 10th July 2002.

**Amendment of the Tir Mynydd (Wales) Regulations 2001**

2. The Tir Mynydd (Wales) Regulations 2001<sup>(3)</sup> shall be amended in accordance with regulations 3 to 18 of these Regulations.

3. In paragraph (1) of regulation 2 (Definitions)—

(a) the following definitions shall be inserted before the definition of “agriculture”—

“the 1994 Regulations” (“*Rheoliadau 1994*”) means the Hill Livestock (Compensatory Allowances) Regulations 1994<sup>(4)</sup>;

“1996 Regulations” (“*Rheoliadau 1996*”) means the Hill Livestock (Compensatory Allowances) Regulations 1996<sup>(5)</sup>;

“the 1999 Regulations” (“*Rheoliadau 1999*”) means the Hill Livestock (Compensatory Allowances) Regulations 1999<sup>(6)</sup> ;”;

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(1) By virtue of the European Communities (Designation) (No. 3) Order (S.I.1999/2788) (“the Order”). The National Assembly’s power to make, as a body designated in relation to the common agricultural policy of the European Community, regulations which extend to holdings which include land situated within the United Kingdom but outside of Wales is confirmed by paragraph 2(b) of Schedule 2 to the Order.

(2) 1972 c. 68.

(3) S.I. 2001/496 (W.23).

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

(5) S.I. 1996/1500, amended by S.I. 1997/33, 1998/206, 1999/375; S.I. 1996/1500 ceased to apply by virtue of S.I. 1999/3316.

(6) S.I. 1999/3316.

- (b) in the definition of “claimant” the words “called a Tir Mynydd Payment” shall be deleted;
- (c) the following definition shall be inserted after the definition of “claimant” (“*ceisydd*”)—  
 ““claimed forage area” (“*arwynebedd porthiant y gwneir cais amdano*”) means in relation to a claim for a compensatory allowance, land which has been entered as forage area in an area aid application for the relevant scheme year;”;
- (d) the following definition shall be inserted after the definition of “Commission Regulation 1750/1999”—  
 ““compensatory allowance” (“*lwfans iawndal*”) means a compensatory allowance payable in accordance with Chapter V of Title II of Council Regulation 1257/1999;”;
- (e) in the definition of “Council Regulation 3508/92” after the word “for” there shall be inserted the word “certain”;
- (f) the following definition shall be substituted for the definition of “eligible land”—  
 ““eligible land” (“*tir cymwys*”) means such part of the qualifying land as lies within a less favoured area;”;
- (g) the following definition shall be inserted after the definition of “ewe”—  
 ““first compensatory payment” (“*taliad iawndal cyntaf*”) means the first Tir Mynydd payment payable under these Regulations or where a compensatory allowance has been paid under the Hill Livestock (Compensatory Allowances) Regulations, the first payment of that allowance;”;
- (h) the following definition shall be substituted for the definition of “forage land”—  
 ““forage area” (“*arwynebedd porthiant*”) has the same meaning as in Article 12(2) (b) of Council Regulation (EC) 1254/1999;”;
- (i) the following definition shall be inserted after the definition of “heifer”—  
 ““Hill Livestock (Compensatory Allowances) Regulations” (“*Rheoliadau Da Byw Tir Uchel (Lwfansau Iawndal)*”) means the 1994 Regulations, the 1996 Regulations or the 1999 Regulations, as the case may be;”;
- (j) in the definition of “livestock unit” (“*uned da byw*”) for paragraphs (a), (b) and (c) there shall be substituted the following paragraphs—  
 “(a) one suckler cow or a heifer aged 24 months or over;  
 (b) 1.67 heifers under the age of 24 months;  
 (c) 6.67 ewes;”;
- (k) the following definitions shall be inserted after the definition of “livestock unit”—  
 ““the National Assembly” (“*y Cynulliad Cenedlaethol*”) means the National Assembly for Wales;  
 “other competent authority” (“*awdurdod cymwys arall*”) means the Secretary of State for the Environment, Food and Rural Affairs, the Scottish Ministers or, in Northern Ireland, the Department of Agriculture and Rural Development;”;
- (l) the following definitions shall be inserted after the definition of “production unit”—  
 ““qualifying land” (“*tir cymhwysol*”) means the relevant land or, in relation to a claimant in relation to whom regulation 3A applies, such part of the relevant land as results from the deductions made to the relevant land in accordance with that regulation;  
 “related less favoured area” (“*tir llai ffafriol sy'n perthyn*”) means, in relation to a claimant, all that claimed forage area, excluding less favoured area, in respect of

which the National Assembly has been advised by any other competent authority that the claimant is eligible for a related less favoured area allowance;

“related less favoured area allowance” (“*twfans tir llai ffafriol sy'n perthyn*”) means—

in relation to England, the Hill Farm Allowance;

in relation to Scotland, the Less Favoured Area Support Scheme; and

in relation to Northern Ireland, the Less Favoured Area Compensatory Allowance;”

“relevant land” (“*tir perthnasol*”) means any claimed forage area situated in Wales;”;

(m) the following definition shall be inserted after the definition of “severely disadvantaged land”—

““sheep annual premium” (“*premiwn blynyddol defaid*”) means the premium payable under the Sheep Annual Premium Regulations 1992(7);”;

(n) the following definitions shall be inserted after the definition of “suckler cow”—

““Suckler Cow Premium” (“*Premiwm Buchod Sugno*”) means the premium payable under the Suckler Cow Premium Regulations 2001(8);

“Tir Mynydd payment” (“*Taliad Tir Mynydd*”) means the compensatory allowance payable in accordance with these Regulations;”.

4. After regulation 2, the following regulation shall be inserted—

**“Power to make payments**

**2A.** The National Assembly shall make, in respect of a scheme year, a Tir Mynydd payment, calculated in accordance with the Schedule, to eligible claimants in respect of their eligible land.”.

5. For regulation 3 (Qualifying claimants) there shall be substituted the following regulation—

**“Eligible claimants**

**3.—**(1) Claimants shall be eligible for a Tir Mynydd payment in respect of a scheme year provided—

- (a) a claim for payment has been made in respect of that scheme year in a valid area aid application and the claimed forage area, if any, complies with one of the conditions specified in paragraph (2); and
- (b) the claimant has submitted a claim for livestock aid in relation to sheep or suckler cows or both in respect of the year for which a claim has been submitted for a Tir Mynydd payment; and
- (c) he or she has applied usual good farming practices compatible with the need to safeguard the environment and maintain the countryside, in particular by sustainable farming; and
- (d) the claimant has given a written undertaking to continue farming for a period of 5 years from the date of the first compensatory payment, at least 3 hectares of land which is either eligible land or related less favoured area, and that claimant is not in breach of that undertaking at the date of payment.

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(7) S.I. 1992 / 2677, amended by S.I. 1994 / 2741, S.I. 1995 / 2779; S.I. 1996 / 49, S.I. 1997 / 2500 and S.I. 2001 / 281.

(8) S.I. 2001/1370.

- (2) The conditions are—
- (a) that no less than 6 hectares of the claimed forage area lies within the less favoured area; or
  - (b) where the claimed forage area lying within the less favoured area is not less than 1 hectare but less than 6 hectares, the total claimed forage area includes land situated in a related less favoured area which is eligible for a related less favoured area allowance.”.

6. After regulation 3, the following regulation shall be inserted—

**“Reduction of relevant land**

**3A.**—(1) In relation to any claimant who has available an individual reference quantity of milk, a reduction calculated in accordance with the provisions of paragraph (2) shall be applied to that claimant’s relevant land.

(2) The reduction referred to in paragraph (1) shall be calculated in accordance with sub-paragraphs (i) to (iii)—

- (i) firstly, the number of livestock units in the notional dairy herd is calculated by dividing the individual reference quantity of milk available to the claimant by 5730, being the number of litres of milk deemed to be equivalent to the annual production of one dairy cow;
- (ii) for each hectare of the claimant’s holding that is not within a less favoured area, the number of livestock units calculated in accordance with sub-paragraph (i) shall be reduced by 2 units;
- (iii) the livestock units remaining following the application of sub-paragraph (ii) shall be used to calculate the reduction in relevant land by reducing the area of such land by 1 hectare for every 2 livestock units so remaining, such reduction to be applied fully to disadvantaged land before being applied to severely disadvantaged land.

(3) In this regulation “notional dairy herd” means the total number of animals deemed to constitute the dairy herd on land farmed by the claimant in Wales as calculated above and “individual reference quantity of milk” has the same meaning as in Article 31 of Commission Regulation (EC) 2342 /1999(9).”.

7. In regulation 4 (Minimum stocking density), after paragraph (2), there shall be inserted the following paragraphs—

“(3) The National Assembly may determine that a stocking density of less than 0.1 is sufficient for the purposes of paragraph (1) if it is reasonably satisfied that it is appropriate to do so in all circumstances of the case, having regard, in particular, to the number of ewes and/or suckler cows not subject to a claim for premium under the Sheep Annual Premium Scheme and/or the Suckler Cow Premium Scheme, and any obligation of the claimant as to the number of ewes and / or suckler cows that may be kept on the land comprising the eligible land, in respect of the year during which the claim for a Tir Mynydd payment is submitted.

(4) In order to enable it to consider whether to exercise its discretion under paragraph (3), the claimant shall provide the National Assembly with such information as it reasonably may require.”.

8. In regulation 6 (Calculation of area payments — element 1), after paragraph (3), there shall be inserted the following paragraph—

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(9) O.J. No. L281, 04.11.99, p.30.

- “(4) After undertaking the basic calculation in accordance with Part A of the Schedule to these Regulations, the National Assembly may, if it thinks fit, increase the amount so calculated by a percentage that it may determine provided that the same percentage increase is applied in respect of each claimant.”.
9. In regulation 7 (Environmental enhancement under Element 2 of the Scheme)—
- (a) in paragraph (2), before the words “10 per cent”, there shall be inserted the words “up to”;
  - (b) in paragraph (3), before the words “20 per cent”, there shall be inserted the words “up to”.
10. In regulation 8 (Categories that qualify for environmental enhancement), in paragraph (b), after the word “land” there shall be inserted the words “which has completed conversion and is”.
11. In regulation 9 (Payments), paragraphs (2) and (3) shall be deleted.
12. In regulation 10 (Claims), the following paragraph shall be substituted for paragraph (3)—
- “(3) The closing date for the submission of a claim for a Tir Mynydd payment in respect of a scheme year shall be 15th May. Late submission shall render the claim subject to penalties calculated in accordance with the provisions of Article 13 of Commission Regulation (EC) No. 2419/2001 of the 11th December 2001 laying down detailed rules for applying the integrated administration and control system for certain Community aid Schemes established by Council Regulation 3508/92(10).”.
13. Regulation 11 (Late claims), shall be deleted.
14. In regulation 12 (Release from undertakings)—
- (a) for “regulation 9(2)” there shall be substituted  
“regulation 3(1)(d)”, and
  - (b) in paragraph (c) for the word “six” there shall be substituted the word “three”, and after the word “land” there shall be inserted the words “or any related less favoured area”.
15. In regulation 13 (Withholding or recovery of payments), in paragraph (a), for “regulation 9(2)” there shall be substituted “regulation 3(1)(d)”.
16. In regulation 14 (Rate of Interest)—
- For the words “payment to the claimant” there shall be substituted the words “the date of notification to the claimant of its intention to so recover ”.
17. Regulation 15 (Cross Border Holdings), shall be deleted.
18. In the Schedule—
- (a) for Part A there shall be substituted the following—

## **“Part A**

1. The basic payment under element one of the Tir Mynydd scheme shall be calculated by multiplying a claimant’s eligible land by the appropriate rate or rates as provided for in paragraph 2.
2. The rates referred to in paragraph 1 are—
  - (a) £23.00 per hectare for disadvantaged land; and
  - (b) £35.00 per hectare for severely disadvantaged land.”.
- (b) For paragraph 4 of Part C there shall be substituted—

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

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“4. In the year 2003 the claimant shall be entitled to an additional sum that when added to the Tir Mynydd payment would bring the total up to 50% of the sum paid to the claimant for HLCA in 2000.”.

**Amendment of the Tir Mynydd (Cross Border Holdings)(Wales) Regulations 2001**

**19.** The Tir Mynydd (Cross Border Holdings)(Wales) Regulations 2001(**11**) shall be amended in accordance with regulations 20 and 21 of these Regulations.

**20.** In regulation 2 (Definitions), paragraph (2) shall be deleted.

**21.** In regulation 4 (Definition of competent authority), in paragraph 2(c), for “the Minister of Agriculture, Fisheries and Food” there shall be substituted “The Secretary of State for Environment, Food and Rural Affairs”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**12**)

9th July 2002

*John Marek*  
The Deputy Presiding Officer of the National  
Assembly

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(11) S.I. 2001 / 1154 (W.61).

(12) 1998 c. 38.

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## EXPLANATORY NOTE

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

These Regulations, which come into force on 10th July 2002, amend the Tir Mynydd (Wales) Regulations 2001 (“the principal Regulations”) so as to:

- (a) re-state and amend the scheme eligibility criteria and in so doing, render eligible for payment, those claimants who, despite having less than the requisite minimum of 6 hectares of eligible forage area in Wales, also have forage land in either England, Scotland or Northern Ireland (“a cross border territory”) being land which provides that claimant with an entitlement to a less favoured area allowance in that cross border territory (regulation 5).
- (b) re-formulate and re-state the provisions dealing with the reduction in forage land where claimants have available an individual reference quantity of milk (regulation 6).
- (c) provide the National Assembly with the power to vary the minimum stocking density requirements of the scheme in certain circumstances (regulation 7).
- (d) provide for basic scheme payments payable by the National Assembly to be increased (regulation 8).
- (e) provide for the environmental enhancements referred to in paragraphs (2) and (3) of regulation 7 of the principal regulations to be payable in respective sums representing up to 10% and 20% of element 1 payments (regulation 9).
- (f) provide for IACS late submission penalties to be applied in respect of late applications for payment submitted under the scheme (regulation 12).
- (g) provide for interest, on undue payments that are recoverable by the National Assembly, to be calculated from the date upon which the National Assembly has notified the claimant that the sum paid was undue (regulation 16).
- (h) provide a new “safety net” formula in respect of calculating Tir Mynydd payments in the year 2003 (regulation 18(b)).
- (i) provide for minor and definitional changes consequent upon the amendments detailed above.

The Regulations also provide for minor amendments to the Tir Mynydd (Cross Border Holdings) (Wales) Regulations 2001 which arise as a consequence of, firstly, the inclusion in the principal regulations of a definition of “claimed forage area” and secondly, the transfer of functions from the Minister of Agriculture, Fisheries and Food to the Secretary of State for Environment, Food and Rural Affairs (regulations 19, 20 and 21).

No Regulatory Appraisal has been prepared in respect of these Regulations.