

## 2001 No. 225

## AGRICULTURE

## The Suckler Cow Premium (Scotland) Regulations 2001

<i>Made</i>	<i>8th June 2001</i>
<i>Laid before the Scottish Parliament</i>	<i>8th June 2001</i>
<i>Coming into force</i>	<i>1st July 2001</i>

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Suckler Cow Premium Regulations 2001 and shall come into force on 1st July 2001.

**Interpretation**

2.—(1) In these Regulations—

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

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

“Commission Regulation 3887/92” means Commission Regulation (EEC) No 3887/92 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes(b) (as amended by Commission Regulation (EC) No. 229/95(c) Commission Regulation (EC) No. 1648/95(d), Commission Regulation (EC) No. 2015/95(e), Commission Regulation (EC) No. 1678/98(f), Commission Regulation (EC) No. 2801/99(g), Commission Regulation (EC) No. 2721/2000(h) and Commission Regulation (EC) No. 882/2001(i));

“Commission Regulation 2342/1999” means Commission Regulation (EC) No. 2342/1999 laying down detailed rules for the application of Council Regulation (EC) No. 1254/1999 on the common organisation of the market in beef and veal as regards premium schemes(j) (as amended by Commission Regulation (EC) No. 1042/2000(k), Commission Regulation (EC) No. 1900/2000(l), Commission Regulation (EC) No. 2733/2000(m) and Commission Regulation (EC) No. 192/2001(n));

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(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(b) O.J. No. L 391, 31.12.92, p.36.

(c) O.J. No. L 27, 4.2.95, p.3.

(d) O.J. No. L 156, 7.7.95, p.27.

(e) O.J. No. L 197, 22.8.95, p.2.

(f) O.J. No. L 212, 30.7.98, p.23.

(g) O.J. No. L 340, 31.12.99, p.29.

(h) O.J. No. L 314, 14.12.00, p.8.

(i) O.J. No. L 123, 4.5.01, p.20.

(j) O.J. No. L 281, 4.11.99, p.30.

(k) O.J. No. L 118, 19.5.00, p.4.

(l) O.J. No. L 228, 8.9.00, p.25.

(m) O.J. No. L 316, 15.12.00, p.44.

(n) O.J. No. L 29, 31.1.01, p.27.

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

“Council Regulation 820/97” means Council Regulation (EC) No 820/97 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products(b);

“Council Regulation 1254/1999” means Council Regulation (EC) No 1254/1999 on the common organisation of the market in beef and veal(c);

“electronic communication” has the same meaning as in the Electronic Communications Act 2000(d);

“forage area” has the same meaning as in Article 12(2)(b) of Council Regulation 1254/1999;

“holding” has the same meaning as in Article 3(b) of Council Regulation 1254/1999;

“the IACS Regulations” means the Integrated Administration and Control System Regulations 1993(e);

“livestock unit” means the unit of measurement used to establish the stocking density of a holding, and calculated in accordance with Article 12 of, and Annex III to, Council Regulation 1254/1999;

“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;

“premium” means the premium for maintaining suckler cows and heifers which is payable under Article 6 of Council Regulation 1254/1999;

“premium animal” means, in respect of a particular scheme year, a suckler cow or heifer in respect of which an application for premium has been or will be made;

“producer” has the same meaning as in Article 3(a) of Council Regulation 1254/1999;

“Regulation 1760/2000” means Regulation (EC) No. 1760/2000 of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and requiring the labelling of beef and beef products and repealing Council Regulation (EC) No, 820/97(f);

“relevant competent authority” has the same meaning as in regulation 2A of the IACS Regulations(g);

“retention period” means the retention period for premium animals referred to in Article 6(2) of Council Regulation 1254/1999 and starting as indicated in Article 16 of Commission Regulation 2342/1999;

“scheme year” means any calendar year in respect of which premium may be paid and includes any part of a retention period in relation to an application for premium in respect of a particular calendar year which falls within the following calendar year;

“specified control measure” means any check which a member State is required to carry out under Article 6 of Commission Regulation 3887/92;

“specified record” means any record which an applicant is required (or has been required) to retain by virtue of–

- (a) regulation 7(1);
- (b) Article 9(1) of the Bovine Animals (Identification, Marking and Breeding Records) Order 1990(h);
- (c) Article 5(1) of the Bovine Animals (Records, Identification and Movement) Order 1995(i);

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(a) O.J. No. L 355, 5.12.92, p.1, as last amended by Commission Regulation (EC) No. 1593/2000 (O.J. No. L 182, 21.7.00, p.4).

(b) O.J. No. L 117, 7.5.97, p.1, repealed by Regulation (EC) No. 1760/2000 of the European Parliament and of the Council (O.J. No. L.204, 11.8.00, p.1).

(c) O.J. No. L 160, 26.6.99, p. 21.

(d) 2000 c.7.

(e) S.I. 1993/1317 as amended by S.I. 1994/1134, 1997/1148, 1999/1820 and 2000/2573.

(f) O.J. No. L 204, 11.8.00, p.1.

(g) Regulation 2A was inserted by S.I. 2000/2573.

(h) S.I. 1990/1867, as amended by S.I. 1993/503 and revoked by S.I. 1995/12.

(i) S.I. 1995/12, partially revoked by S.I.1998/871.

- (d) Articles 7(1) and 7(4) of Council Regulation (EC) No 820/97 and the Cattle Identification (Enforcement) Regulations 1997<sup>(a)</sup>;
- (e) Articles 7(1) and 7(4) of Council Regulation (EC) No 820/97 and the Cattle Identification Regulations 1998<sup>(b)</sup>;
- (f) Articles 7(1) and 7(4) of Regulation (EC) No 1760/2000 and the Cattle Identification Regulations 1998; or
- (g) regulation 5 of the Cattle (Identification of Older Animals) (Scotland) Regulations 2001<sup>(c)</sup>; and

“unsuitable supplementary feeding methods” means provision of 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 land by animals or excessive rutting by vehicles.

(2) Other expressions used in these Regulations have, in so far as the context allows the same meanings as in Council Regulation 1254/1999, Commission Regulation 2342/1999 and Commission Regulation 3887/92.

(3) In these Regulations any reference to anything done in writing or produced in written form includes a reference to an electronic communication which has been recorded and is consequently capable of being reproduced.

(4) Any reference in these Regulations to a numbered regulation or paragraph is a reference to the regulation or paragraph of the regulation so numbered in these Regulations .

### **Application**

3.—(1) These Regulations shall apply to applicants, and in relation to the holdings of such applicants, to the specified extent.

(2) For the purposes of paragraph (1) above, “the specified extent”, in relation to an applicant, is the extent to which the Scottish Ministers are the relevant competent authority (within the meaning of the IACS Regulations) in relation to the holding of that applicant for the purposes of the IACS Regulations.

### **Applications for premium etc.**

4.—(1) For the purpose of Article 6(2)(b) of Council Regulation 1254/1999, the total individual reference quantity which must not be exceeded shall be 180,000 kilograms of milk or milk products.

(2) For the purpose of Article 30(2) of Commission Regulation 2342/1999, the period in each calendar year during which an application for premium may be submitted shall be the period from and including 1st July to and including 6th December in that calendar year.

(3) A producer shall not be entitled to submit more than one application for premium during any one calendar year.

(4) Where, in respect of any particular calendar year, a number of applications for premium are submitted by persons who have in respect of that year made more than one area aid application under Article 6 of Council Regulation (EEC) No 3508/92 but who are regarded as a single farmer within the meaning of Article 1(4) of that Regulation, the applications concerned shall be deemed to be a single application made by one producer for the purposes of paragraph (3).

(5) Where any additional payment provided for by—

- (a) Article 1 of Council Regulation (EC) No. 2443/96 providing for additional measures for direct support of producers’ incomes or for the beef and veal sector<sup>(d)</sup>; or
- (b) Article 14 of Council Regulation 1254/1999,

is made to a successful applicant, then—

- (i) the applicant shall be deemed to have applied for that payment under this regulation in the like manner that the applicant applied for the premium concerned;

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(a) S.I. 1997/1901, revoked by S.I. 1998/871.

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

(c) S.S.I 2001/1.

(d) O.J. No. L 333, 21.12.96, p.2.

- (ii) the application the applicant is deemed to have made as aforesaid shall for the purposes of paragraph (3) be regarded as the same as the application made by that person and which attracted that additional payment; and
- (iii) the additional payment shall for the purposes of regulations 5 to 15 be regarded as a payment of that premium.

### **Overgrazing**

5.—(1) Subject to paragraph (3), where, in the year preceding the opening date for submitting claims for premium in respect of any given scheme year, the Scottish Ministers are of the opinion that any parcel of land is being overgrazed, they may serve on the occupier a written notice specifying the maximum number of animals which may be grazed and maintained on that parcel in that scheme year.

(2) The maximum number referred to in paragraph (1) shall be determined by taking into account the number of other animals (expressed in terms of livestock units) likely to be grazed and maintained on the parcel of land concerned in the scheme year in question and having regard to such conditions as may be specified in the notice referred to in paragraph (1).

(3) Where the Scottish Ministers have previously served a notice under paragraph (1) or any of the provisions specified in paragraph (6) in relation to a parcel of land, they may serve a further notice under paragraph (1) in relation thereto without having formed the opinion that it is being overgrazed.

(4) Where the Scottish Ministers have served a notice in relation to a parcel of land under this regulation or any of the provisions specified in paragraph (6), no premium shall be paid in respect of the scheme year for which the notice was issued on any number of premium animals grazed and maintained in that scheme year on the parcel of land to which it relates in excess of the maximum number of such animals specified in the notice.

(5) Where the Scottish Ministers have issued a notification under paragraph (1) and are satisfied that –

- (a) any condition specified in the notice has been breached; or
- (b) more premium animals than the maximum number specified in the notice have been grazed and maintained on the parcel of land to which the notice relates in the scheme year for which the notice was issued,

they may withhold, or may recover on demand as a debt, the whole or any part of the premium otherwise payable or as the case may be already paid to the recipient of the notice for the scheme year to which it relates.

(6) The provisions referred to in paragraphs (3) and (4) are–

- (a) regulation 3A of the Suckler Cow Premium Regulations 1993(a);
- (b) regulation 11 of the Beef Special Premium Scheme Regulations 1996(b);and
- (c) regulation 3A of the Sheep Annual Premium Regulations 1992(c).

### **Unsuitable supplementary feeding methods**

6.—(1) Where, in any scheme year, the applicant uses unsuitable supplementary feeding methods, the Scottish Ministers may–

- (a) in accordance with paragraph (2), reduce or withhold the amount of premium otherwise payable to the applicant in respect of that scheme year; or
- (b) where premium has already been paid to the applicant in respect of that scheme year, recover any premium so paid as a debt.

(2) Where the applicant was not penalised for using unsuitable supplementary feeding methods under paragraph (1) nor under any of the provisions specified in paragraph (3) in the preceding Scheme year, the amount of premium referred to in paragraph (1) may be reduced by ten per cent; where the applicant was so penalised in the preceding Scheme year, but not in the

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(a) S.I. 1993/1441, as amended by S.I. 1994/1528, 1995/15, 1995/1446, 1996/1488 and 1997/249. Regulation 3A was inserted by SI 1994/1528.

(b) S.I. 1996/3241, as amended by S.I. 1999/1179.

(c) S.I. 1992/2677, as amended by 1994/2741, 1995/2779, 1996/49, 1997/2500, 2000/2573 and 2001/281. Regulation 3A was inserted by S.I. 1994/2741.

Scheme year before that, that amount may be reduced by twenty per cent; and where the applicant was so penalised in each of the two preceding Scheme years that amount may be withheld.

- (3) The provisions referred to in paragraph (2) are—
  - (a) regulation 3B of the Suckler Cow Premium Regulations 1993(a);
  - (b) regulation 12 of the Beef Special Premium Scheme Regulations 1996; and
  - (c) regulation 3B of the Sheep Annual Premium Regulations 1992(b).

### **Retention of records**

7.—(1) An applicant shall retain for a period of not less than four years from the relevant date any bill, account, receipt, voucher or other record relating to—

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

(2) For the purpose of this regulation, “relevant date” means, in relation to an applicant, the date on which the application was submitted by or on behalf of that person to the Scottish Ministers.

### **Powers of authorised persons**

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

- (a) carrying out any specified control measure; or
- (b) ascertaining whether an offence under regulation 12(d) has been or is being committed.

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

- (3) An authorised person who has entered any land by virtue of this regulation may—
  - (a) inspect and verify the total area of land, including forage area, farmed by an applicant;
  - (b) inspect and count any cattle on that land;
  - (c) carry out any other activity which is a specified control measure; and
  - (d) inspect that land for the purpose of determining whether or not it has been overgrazed or unsuitable supplementary feeding methods have been used on it.

(4) An authorised person entering any land by virtue of this regulation may take with that person such other persons as is considered necessary.

- (5) An authorised person may—
  - (a) require an applicant or any employee or agent of an applicant to produce any specified record and to supply such additional information in the possession or under the control of that person relating to an application for premium as the authorised person 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 used in connection with that specified record;
  - (c) require that copies of, or extracts from, any specified record be produced;
  - (d) seize and retain any such specified record which that authorised person 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.

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(a) Regulation 3B was inserted by SI 1994/1528.  
(b) Regulation 3B was inserted by S.I. 1994/2741.

### **Assistance to authorised persons**

9. An applicant or any employee or agent of an applicant shall give to an authorised person such assistance as such person may reasonably request so as to enable that authorised person to exercise any power conferred by regulation and in particular, in relation to any cattle, shall arrange for the collection, penning and securing of such cattle, if so requested.

### **Withholding and recovery of premium**

10.—(1) Where at any time during a scheme year an applicant fails to—

- (a) comply with the requirements of regulation 7(1);
- (b) comply with the requirements of Article 7.4 of Council Regulation 1760/2000 and the Cattle Identification Regulations 1998; or
- (c) in the reasonable opinion of the Scottish Ministers, keep any specified record in a form which is accurate and up to date,

the Scottish Ministers may withhold or recover on demand as a debt the whole or any part of any premium payable or, as the case may be, paid to the producer in respect of that scheme year.

(2) Where an applicant intentionally obstructs an authorised person, or a person accompanying such authorised person and acting under the instructions of such person, from exercising a power under regulation 8, or fails without reasonable excuse to comply with a request made by an authorised person when carrying out a specified control measure, the Scottish Ministers shall be entitled to recover on demand as a debt from that applicant the whole or any part of any premium paid to that applicant.

(3) Where a person (other than an applicant) intentionally obstructs an authorised person, or a person accompanying such authorised person and acting under the instructions as a debt, from carrying out a specified control measure, or fails without reasonable excuse to comply with a request made by an authorised person for the purpose of carrying out a specified control measure, the Scottish Ministers shall be entitled where such person was at the time of such obstruction or failure an employee or agent of an applicant, to recover on demand as a debt from that applicant the whole or any part of any premium paid to that applicant.

### **Rate of interest**

11. For the purpose of Article 14(1) of Commission Regulation 3887/92, interest shall be charged at the rate of one percentage point above the sterling three months London Interbank Offered Rate on a day to day basis for the period specified in that Article.

### **Offences**

12. It shall be an offence for a person—

- (a) without reasonable excuse, to fail to comply with the provisions of regulation 7(1);
- (b) intentionally to obstruct an authorised person in the exercise of a power conferred by regulation 8;
- (c) without reasonable excuse, to fail to comply with a request made under regulation 9; or
- (d) knowingly or recklessly to make a statement or furnish any information which is false or misleading in a material particular where the statement is made or the information is furnished—
  - (i) in purported compliance with any requirement imposed under regulation 7(1); or
  - (ii) for the purposes of obtaining for that or any other person the whole or any part of any premium.

### **Penalties**

13.—(1) A person guilty of an offence under regulation 12(a), (b) or (c) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) A person guilty of an offence under regulation 12(d) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Time limit for prosecutions**

**14.—(1)** Proceedings for an offence under these Regulations may be commenced within the period of twelve months from the date on which the offence was committed.

(2) Section 136(3) of the Criminal Procedure (Scotland) Act 1995(a) (date of commencement of proceedings) shall apply for the purposes of this regulation as it applies for the purposes of that section.

### **Offences by bodies corporate**

**15.—(1)** Where an offence under these Regulations committed by a body corporate or a partnership is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate, or any person who was purporting to act in any such capacity (or in the case of a partnership, a partner or a person who was purporting to act as such), that person as well as the body corporate or the partnership, as the case may be, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the provisions of paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with the members' functions of management as if the member were a director of the body corporate.

### **Revocations and saving**

**16.—(1)** Subject to paragraph (3), the following Regulations are revoked:—

- (a) the Suckler Cow Premium Regulations 1993(b);
- (b) the Suckler Cow Premium (Amendment) Regulations 1994(c);
- (c) the Suckler Cow Premium (Amendment) Regulations 1995(d);
- (d) the Suckler Cow Premium (Amendment) (No. 2) Regulations 1995(e);
- (e) the Suckler Cow Premium (Amendment) Regulations 1996(f);
- (f) the Suckler Cow Premium (Amendment) Regulations 1997(g).

(2) In the Schedule to the Integrated Administration and Control System (Amendment) Regulations 2000(h) the entry "The Suckler Cow Premium Regulations 1993"(i) shall be omitted.

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(a) 1995 c.46.

(b) S.I. 1993/1441.

(c) S.I. 1994/1528.

(d) S.I. 1995/15.

(e) S.I. 1995/1446.

(f) S.I. 1996/1488.

(g) S.I. 1997/249.

(h) S.I. 2000/2573.

(i) S.I. 1993/1441, as amended by S.I. 1994/1528, 1995/15, 1995/1446, 1996/1488, 1997/249 and 2000/2573.

(3) Paragraph (1) shall not affect the continued operation of regulations 3 to 11 of the Suckler Cow Premium Regulations 1993 in respect of premium paid under those Regulations.

Pentland House,  
Edinburgh  
8th June 2001

*ROSS FINNIE*  
A member of the Scottish Executive



## **EXPLANATORY NOTE**

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

These Regulations, which come into force on 1st July 2001, replace the provisions of the Suckler Cow Premium Regulations 1993 (S.I. 1993/1441) and the Suckler Cow Premium (Amendment) Regulations 1994 to 1997 (S.I. 1994/1528, 1995/15, 1995/1446, 1996/1488, and 1997/249).

The Regulations lay down implementing measures for the suckler cow premium scheme provided for in Article 6 of Council Regulation (EC) No. 1254/1999 on the common organisation of the market in beef and veal. They provide for the administration of the scheme in relation to applicants and their holdings where those holdings are situated wholly in Scotland, and also holdings situated partly in Scotland and partly elsewhere in the United Kingdom, where the Scottish Ministers are responsible for processing the farmer's claim for suckler cow premium (regulations 3 to 6). They also lay down enforcement provisions applicable where the Scottish Ministers have such responsibility (regulations 8 to 15).

The rules relating to administration provide for the submission of applications for suckler cow premium (regulation 4) and the retention of records by applicants (regulation 7), impose sanctions for overgrazing and the use of unsuitable supplementary feeding methods (which are included as a condition of the scheme by virtue of Article 3 of Council Regulation (EC) No. 1259/1999 establishing common rules for direct support schemes under the common agricultural policy) (regulations 5 and 6) and provide for withholding or recovery of suckler cow premium where there is a breach of the rules of the scheme (regulations 10 and 11).

The enforcement provisions confer powers of entry, inspection and collection of evidence on authorised persons (regulations 8 and 9). These include the powers required under Article 6 of Commission Regulation (EEC) No. 3887/92 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes. Regulations 12 to 15 deal with offences and penalties.

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





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