

1976 No. 798 (S. 69)

AGRICULTURE

The Hill Livestock and Young Cattle (Compensatory Allowances) (Scotland) Regulations 1976*Laid before Parliament in draft**Made* - - - 18th May 1976*Coming into Operation* 19th May 1976

In exercise of the powers conferred on me, being a Minister designated^(a) in relation to the Common Agricultural Policy of the European Economic Community, by section 2(2) of the European Communities Act 1972^(b) and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation and commencement

1. These regulations, which may be cited as the Hill Livestock and Young Cattle (Compensatory Allowances) (Scotland) Regulations 1976, shall come into operation on the day after 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;

“approved breed” means any hardy breed or cross breed of sheep approved by the Secretary of State 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 eligible 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 a qualifying day, has either borne a

(a) S.I. 1972/1811 (1972 III, p. 5216).

(b) 1972 c. 68.

calf, or to the satisfaction of the Secretary of State has been brought into the herd primarily for the purpose of replacing such an animal and is suitable for that purpose;

“eligible land” means land of not less than 3 hectares, being land—

- (a) situated in an area which is included in the list of less-favoured farming areas adopted by the Council of Ministers of the European Economic Community under Article 2(2) of Council Directive No. 75/268/EEC of 28th April 1975(a) and consists predominantly of mountains, hills or heath, and
- (b) which is, or by improvement could be made, suitable for use for the breeding, rearing and maintenance of sheep or cattle but not, in the opinion of the Secretary of State for the carrying on, to any material extent, of dairy farming, the production, to any material extent, of fat sheep or fat cattle or the production of crops in quantity materially greater than that necessary to feed the number of sheep or cattle capable of being maintained on the land;

“ewe” means a female sheep which, on a qualifying day, is more than one year old;

“hill sheep land” means eligible land suitable for use for the maintenance of sheep of a hardy kind, but not of sheep of other kinds;

“occupier” includes a person who has a right to use eligible land for the purpose of grazing cattle or sheep;

“qualified flock” means a flock of ewes which is kept on eligible land, or on eligible land and other land used with it, for the breeding and rearing of lambs, and which, in the opinion of the Secretary of State, is maintained and managed in accordance with sound husbandry practice;

“qualifying day” means, in respect of any year in which a compensatory allowance may be 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 a qualifying day, been in existence for a period of at least 6 months,
- (b) in the opinion of the Secretary of State, is maintained primarily for the purpose of breeding and rearing calves, and
- (c) in the opinion of the Secretary of State, is reasonably constant in its composition and maintained and managed in accordance with sound husbandry practice;

“retirement pension” means a category A and category B pension within the meaning of section 12(1)(f) of the Social Security Act 1975(b), and a category C and category D pension within the meaning of section 34(1)(e) of that Act;

“specially qualified flock” means a qualified flock of which all, or, in the opinion of the Secretary of State substantially all, of the ewes comprised in that flock are of an approved breed, and which is maintained or substantially maintained on hill sheep land;

(a) OJ No. L. 128, 19.5.1975, p. 1.

(b) 1975 c. 14.

“unit of account” means a unit of account of the European Economic Community, and any reference to a specified number of units of account shall be taken to be a reference to the sterling equivalent of that number of units of account at the qualifying day in any year in respect of which a compensatory allowance may be paid, calculated at such rate as may appear to the Secretary of State, having regard to any relevant provisions of any instrument issued by that Community, to be appropriate;

“young cattle” means any bovine animal being reared on eligible land which is not less than 6 months old and not more than 24 months old on the qualifying day.

(2) The Interpretation Act 1889^(a) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Compensatory Allowances

3.—(1) Subject to the provisions of these regulations, the Secretary of State may, in respect of the years 1976 and 1977, pay to any person who is at the beginning of the qualifying day in any of those years 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 young cattle, and sheep comprised in a qualified flock.

(2) Subject to regulations 4 and 5 below a compensatory allowance for cattle shall be payable in respect of (a) the number of breeding cows comprised in a herd on a qualifying day and shall consist of an amount per breeding cow of £15 or 30 units of account, whichever is the less, and (b) the number of young cattle maintained on a qualifying day and shall consist of an amount for each animal of £9 or 18 units of account whichever is the less.

(3) Subject to regulation 6 below a compensatory allowance for sheep shall be payable in respect of the number of ewes comprised in a flock on a qualifying day, and shall—

(a) in the case of a ewe of an approved breed comprised in a specially qualified flock, consist of an amount per ewe of £2.40 or 5 units of account, whichever is the less; and

(b) in the case of any other ewe, consist of an amount per ewe of £2 or 5 units of account, whichever is the less.

(4) Notwithstanding the provisions of paragraphs (2) and (3) above, the total amount of a compensatory allowance which may be paid to the occupier of eligible land in respect of any year shall not exceed 30 units of account for each hectare of eligible land which appears to the Secretary of State to have been available to that occupier throughout the greater part of the preceding year for the maintenance of his herd, young cattle or flock.

(5) A compensatory allowance in respect of any year shall only be paid to an occupier of eligible land—

(a) who submitted an application for grant under the Winter Keep (Scotland) Scheme 1975^(b) and to whom such a grant was paid or would, but for the provisions of paragraphs 4 or 7 thereof, have been payable thereunder;

(a) 1889 c. 63.

(b) S.I. 1975/882 (1975 II, p. 3099).

- (b) who, in respect of that year—
 - (i) does not qualify for payment under the Hill Livestock (Compensatory Allowances) Regulations 1975(a), or
 - (ii) makes application for a compensatory allowance under these regulations in place of a compensatory allowance under the regulations referred to in sub-paragraph (i) above; and
- (c) if (except in the case of such an occupier who is in receipt of a retirement pension) he enters into a written undertaking in such form as the Secretary of State may require to the effect that he will, for a period of five years from the qualifying day in that year, continue to use eligible land for agricultural purposes.

Provisions with respect to cattle

4.—(1) Subject to the following provisions of this regulation, where the Secretary of State is of the opinion that the number of breeding cows comprised in a regular breeding herd on a qualifying day is greater or less than the number of breeding cows which he is satisfied has been the number normally comprised in that herd throughout the preceding year or, in the case of a herd newly established or re-established in that year, throughout such shorter period as the Secretary of State may determine, (including, as breeding cows for this purpose, heifers which have become, or would in his opinion have become, breeding cows by that qualifying day), a compensatory allowance shall be payable in relation to that qualifying day in respect of the number of breeding cows which the Secretary of State is satisfied is the number of breeding cows which has been normally so comprised in the herd.

(2) For the purposes of paragraph (1) above, the Secretary of State may disregard any temporary reduction in numbers where he is satisfied that such reduction was or is due to deaths or disposals of cows, and those cows have been or will be suitably replaced as soon as reasonably practicable.

(3) Where the Secretary of State is satisfied that—

- (a) the number of breeding cows comprised in a regular breeding herd on a qualifying day is less than the number normally comprised in that herd, and that the reduction is due to the slaughter of cows in the herd in the course of brucellosis eradication, and
- (b) the person to whom a compensatory allowance in respect of that herd may be paid will make satisfactory arrangements for those animals to be suitably replaced in the herd as soon as reasonably practicable, and for repayment of any compensatory allowance paid in respect of any such animal in the event of its not being so replaced,

a compensatory allowance shall be payable in relation to that qualifying day in respect of such number of breeding cows as would, in the opinion of the Secretary of State, have been comprised in that herd on that qualifying day had its numbers not been reduced by reason of such slaughter.

(4) Where, in the opinion of the Secretary of State, an appreciable quantity of milk has been produced by a regular breeding herd in the period of 12 months immediately preceding a qualifying day, and such milk has been sold or used for the making of cheese for sale, a compensatory allowance shall be payable in relation to that qualifying day in respect of the number of breeding cows

(a) S.I. 1975/2210 (1975 III, p. 8312).

comprised in the herd on that day reduced by such number as appears to the Secretary of State to be the number of cows in the herd required to produce that quantity of milk in that period.

(5) Notwithstanding 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 either of the following numbers, that is to say—

- (a) where the number of calves produced by the herd in the year preceding that day is, in the opinion of the Secretary of State, unusually low for a herd of its size, such number of breeding cows as he considers to be reasonable, regard being had to the number of calves so produced; or
- (b) the number of breeding cows which, in the opinion of the Secretary of State, the land on which the herd was substantially grazed and maintained in the year preceding that day was capable of carrying without overgrazing it, taking into account the number of animals grazed and maintained on that land in that year.

Provisions with respect to young cattle

5.—(1) Where the Secretary of State is of the opinion that the number of young cattle included in an application for a compensatory allowance in respect of the year 1976 or the year 1977 is greater or less than the number of young cattle regularly maintained by the applicant during the preceding year or such part of that year as the Secretary of State may determine, a compensatory allowance shall be made in relation to the qualifying day in that year in respect of such number of young cattle as the Secretary of State is satisfied is the number of young cattle which has been regularly so maintained taking into account the number of animals grazed and maintained on that land in that year.

(2) Any heifer which is included as a breeding cow for the purposes of regulation 4 above will not be included in the number of young cattle eligible in terms of paragraph (1) above.

Provisions with respect to sheep

6.—(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 Secretary of State, 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 of an approved breed and the number of ewes of any other breed in respect of which a compensatory allowance may be paid in relation to any qualifying day shall respectively not exceed the number of ewes of each of such breeds as the Secretary of State may determine are comprised in a determination by him or, as the case may be, a calculation of any of the following numbers, that is to say—

- (a) the number of ewes which the Secretary of State 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 Secretary of State 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) where the number of lambs produced by the flock in the year preceding that day is, in the opinion of the Secretary of State, unusually low for a flock of its size, such number of ewes as he may determine to be reasonable, regard being had to the number of lambs so produced;
- (c) a number calculated at the rate of six ewes for each hectare of eligible land which the Secretary of State 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
- (d) the number of ewes which the Secretary of State determines to be the number which the land on which the flock was substantially grazed and maintained in the year preceding that day was, in his opinion, capable of carrying without overgrazing, taking into account the number of animals grazed on that land in that year.

Restriction on subsidy payment to occupiers of eligible land

7.—(1) Notwithstanding the provisions of any scheme made under section 12 of the Agriculture Act 1967(a), an occupier of eligible land, whether or not he applies for or receives a compensatory allowance under these regulations in respect of the year 1976 or the year 1977, shall not be eligible to receive for any cattle maintained by him on that land any subsidy payment payable in accordance with or by virtue of any such scheme in relation to those years in respect of any cattle to which any such scheme applies.

(2) An occupier of eligible land shall not be eligible to receive for any young cattle maintained by him on that land any incentive payment payable in accordance with or by virtue of any scheme made under section 106 of the Agriculture Act 1970(b).

Applications for compensatory allowances

8.—(1) Payment of a compensatory allowance shall not be made unless an application for that payment has been submitted to the Secretary of State in such form and at such time as he may require.

(2) If a person authorised by the Secretary of State so requires, the herd, young cattle or flock to which an application relates shall be gathered together at a convenient place for the purpose of counting and inspection, and such documents or records as may be required by the Secretary of State shall be produced for inspection in support of any applications.

(3) In any counting of sheep, a reasonable allowance may be made for dead or ungathered animals.

Release from undertaking

9. A person in receipt of a compensatory allowance under these regulations shall be released from the undertaking referred to in regulation 3(5) above where—

- (a) he ceases farming in accordance with the provisions of Article 2(1) of Council Directive No. 72/160/EEC of 17th April 1972(c) (which formulates measures designed to ensure the cessation of farming and the re-allocation of utilised agricultural areas for the purposes of structural improvement);

(a) 1967 c. 22.

(b) 1970 c. 40.

(c) OJ No. L 96, 23.4.1972 p. 9.

- (b) he is in receipt of a retirement pension; or
- (c) he is prevented from continuing to discharge that undertaking by reason of—
 - (i) any material circumstances beyond his control; or
 - (ii) the compulsory purchase of his eligible land, or the eligible land used by him for the grazing of animals, or its purchase in the public interest.

Recovery of compensatory allowances

10. 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(5) above, fails in any way to comply with the terms thereof, or
- (c) fails to replace animals in accordance with regulations 4(2) or (3) above in respect of which a compensatory allowance has been paid under the provisions of these regulations,

the Secretary of State shall be entitled to recover the whole or any part of any compensatory allowance paid to him or to such other person.

Offences

11. 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—

- (a) on summary conviction to a fine not exceeding £100 or imprisonment for a term not exceeding 3 months or both, or
- (b) on conviction on indictment to a fine not exceeding £400 or to imprisonment for a term not exceeding two years or both.

Bruce Millan,

One of Her Majesty's Principal
Secretaries of State.

New St. Andrew's House,
18th May 1976.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations make further implementation in Scotland of part of Directive 75/268 of the Council of the European Economic Community, which is designed to assist farmers in the less-favoured farming areas. They provide for the payment of annual compensatory allowances to certain occupiers of eligible land in such areas for the breeding and rearing of cattle and sheep. Payments are to be made in respect of the years 1976 and 1977 and are alternative to payments under the Hill Livestock (Compensatory Allowances) Regulations 1975.

In order to qualify for a compensatory allowance a person must—

- (a) on the qualifying day in any of the years 1976 or 1977 be occupying at least three hectares of eligible land and be maintaining cattle comprised in a regular breeding herd or sheep comprised in a qualified flock (both of which terms are defined in the Regulations) or young cattle of an age on that day of not less than 6 months and not more than 24 months;
- (b) have been eligible for a payment under the Winter Keep (Scotland) Scheme 1975 and have applied for payment of a compensatory allowance under these Regulations rather than the Hill Livestock (Compensatory Allowances) Regulations 1975;
- (c) if not in receipt of a state retirement pension, give an undertaking to continue to farm at least three hectares of eligible land for the period of five years from the qualifying day (1st January) in the year in respect of which the allowance is paid.

A compensatory allowance is payable in respect of the number of breeding cows comprised in a herd, or the number of young cattle being reared, or the number of ewes comprised in a flock, on the qualifying day in the year in question. The Secretary of State is given power to adjust that number in the circumstances set out in the Regulations. In the case of breeding cows, the amount of the allowance is £15 or 30 units of account, whichever is the less. In the case of young cattle the amount of the allowance is £9 or 18 units of account, whichever is the less. In the case of ewes, however, a distinction is drawn between those of an approved breed which form part of a specially qualified flock (as defined in the Regulations), and other ewes in respect of which an allowance may be paid. In the former case, the rate is £2.40 or 5 units of account (whichever is the less), and in the latter case, £2 or 5 units of account (whichever is the less). In any year, the overall payment to any person is restricted to a maximum of 30 units of account for each hectare of eligible land available to him for the maintenance of the eligible animals.

The Regulations contain provisions entitling a recipient of a compensatory allowance to be released from the five-year undertaking in certain specified circumstances. Provision is also made for the recovery of a compensatory allowance in certain cases, and for offences arising out of false claims.

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