
STATUTORY INSTRUMENTS

1993 No. 1441

AGRICULTURE

The Suckler Cow Premium Regulations 1993

<i>Made</i>	- - - -	<i>7th June 1993</i>
<i>Laid before Parliament</i>		<i>9th June 1993</i>
<i>Coming into force</i>	- -	<i>30th June 1993</i>

The Minister of Agriculture, Fisheries and Food, and the Secretary of State, being Ministers designated((1)) for the purposes of section 2(2) of the European Communities Act 1972((2)) in relation to the common agricultural policy of the European Economic Community, acting jointly in exercise of the powers conferred on them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Title, extent and commencement

1. These Regulations may be cited as the Suckler Cow Premium Regulations 1993, shall apply in Great Britain and shall come into force on 30th June 1993.

Interpretation

2. –

(1) In these Regulations, unless the context otherwise requires–

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

“appropriate Minister” means in relation to England, the Minister of Agriculture, Fisheries and Food and, in relation to Wales or Scotland, the Secretary of State concerned with agriculture in those parts of the United Kingdom;

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

“cattle” means cows and heifers;

“Commission Regulation 3886/92” means Commission Regulation (EEC) No. 3886/92 laying down detailed rules for the application of the premium schemes provided for in Council Regulation (EEC) No. 805/68 on the common organization of the market in beef and repealing

(1) S.I.1972/1811.

(2) 1972 c. 68.

Regulations (EEC) No. 1244/82 and (EEC) No. 714/89((3)), as amended by Commission Regulation (EEC) No. 538/93((4));

“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((5));

“Council Regulation 805/68” means Council Regulation (EEC) No. 805/68 on the common organization of the market in beef and veal((6)), as amended, so far as is relevant to these Regulations, by Council Regulation (EEC) No. 2066/92((7)) and Council Regulation (EEC) No. 125/93((8));

“forage area” has the same meaning as in Article 4g(3) of Council Regulation 805/68;

“holding” has the same meaning as in Article 4a of Council Regulation 805/68;

“premium” means the premium for maintaining suckler cows which is payable under Article 4d of Council Regulation 805/68;

“producer” has the same meaning as in Article 4a of Council Regulation 805/68;

“relevant date” means, in relation to an applicant, the date on which his application was submitted to the appropriate Minister;

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

“specified record” means any record which is required to be retained by virtue of regulation 4.

(2) Other expressions used in these Regulations have, in so far as the context admits, the same meanings as in Council Regulation 805/68, Commission Regulation 3886/92 and Commission Regulation 3887/92.

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

Applications

3. –

(1) For the purpose of Article 24(2) of Commission Regulation 3886/92, 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 11th December in that calendar year.

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

Retention of records

4. –

(1) An applicant shall retain for a period of four years from the relevant date any bill, account, receipt, voucher or other record relating to—

(a) the number of cattle kept on his holding during the period of six months following that date, and

(3) OJ No. L391, 31.12.92, p. 20.

(4) OJ No. L57, 10.3.93, p. 19.

(5) OJ No. L391, 31.12.92, p. 36.

(6) OJ No. L148, 28.6.68, p. 24 (OJ/SE 1968, vol. I, p. 187).

(7) OJ No. L215, 30.7.92, p. 49.

(8) OJ No. L18, 27.1.93, p. 1.

- (b) any transaction concerning cattle, milk or milk products carried out by him on that date and during the period of twelve months following that date.
- (2) Without prejudice to the generality of the provisions of paragraph (1) above, an applicant shall either—
 - (a) retain for a period of four years from the relevant date the special register referred to in Article 4g(4) of Council Regulation 805/68, or
 - (b) retain for such period any records which he has kept under Article 3(1) of the Movement of Animals (Records) Order 1960((9)) and Article 9(1) of the Bovine Animals (Identification, Marking and Breeding Records) Order 1990((10)), provided that the suckler cows for which an application for premium was made are clearly distinguished from the other animals recorded in such records.

Powers of authorised persons

5. –

- (1) An authorised person may at all reasonable hours and on producing, if so required, some duly authenticated document showing his authority, 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 9(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; and
 - (c) carry out any other activity which is a specified control measure.
- (4) An authorised person entering any land by virtue of this regulation may take with him such other persons as he considers necessary.
- (5) An authorised person may—
 - (a) require an applicant or any employee, servant or agent of an applicant to produce any specified record and to supply such additional information in that person's possession or under his control 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 he 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.

(9) S.I. 1960/105, relevant amending instruments are S.I. 1961/1493 and 1989/879.

(10) S.I. 1990/1867, amended by S.I. 1993/503.

Assistance to authorised persons

6. An applicant or any employee, servant or agent of an applicant shall give to an authorised person such assistance as the authorised person may reasonably request so as to enable the authorised person to exercise any power conferred under regulation 5 and in particular, in relation to any cattle, shall arrange for the collection, penning and securing of such cattle, if so requested.

Recovery of premium

7. –

(1) Where an applicant intentionally obstructs an authorised person, or a person accompanying such authorised person and acting under his instructions, from carrying out a specified control measure, or fails without reasonable excuse to comply with a request made by an authorised person when carrying out a specified control measure, the appropriate Minister shall be entitled to recover on demand from that applicant the whole or any part of any premium paid to him.

(2) Where a person (other than an applicant) intentionally obstructs an authorised person, or a person accompanying such authorised person and acting under his instructions, 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 appropriate Minister shall be entitled where such person was at the time of such obstruction or failure an employee, servant or agent of an applicant, to recover on demand from that applicant the whole or any part of any premium paid to that applicant.

Rate of interest

8. Except where the appropriate Minister recovers from any applicant any premium or part of any premium paid to that applicant as a result of an error of that Minister, 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

9. It shall be an offence for a person–

- (a) without reasonable excuse, to fail to comply with the provisions of regulation 4;
- (b) intentionally to obstruct an authorised person in the exercise of a power conferred by regulation 5;
- (c) without reasonable excuse, to fail to comply with a request made under regulation 6; 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 by regulation 4; or
 - (ii) for the purposes of obtaining for himself or any other person the whole or any part of any premium.

Punishment of offences

10. –

(1) A person guilty of an offence under regulation 9(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 9(d) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Time limit for prosecutions

11. –

(1) Proceedings for an offence under regulation 9 may, subject to paragraph (2) below, in England and Wales be brought, and in Scotland be commenced, within the period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant proceedings comes to his knowledge.

(2) No such proceedings shall be brought by virtue of this regulation more than twelve months after the commission of the offence.

(3) For the purpose of this regulation, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

(5) In relation to proceedings in Scotland, subsection (3) of section 331 of the Criminal Procedure (Scotland) Act 1975((11)) (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

12. –

(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of–

- (a) any director, manager, secretary or other similar officer of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

he, as well as the body corporate, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

(2) For the purposes of paragraph (1) above, “director”, in relation to a body corporate whose affairs are managed by its members, means a member of that body corporate.

(3) Where an offence under these Regulations is committed in Scotland by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 7th June 1993.

(L.S.)

Gillian Shephard
Minister of Agriculture, Fisheries and Food

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

7th June 1993

Hector Monro
Parliamentary Under Secretary of State, Scottish
Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply throughout Great Britain and come into force on 30th June 1993. They make provision for the administration and enforcement of the provisions for the payment of a premium for maintaining suckler cows, under Article 4d of Council Regulation (EEC) No. 805/68 and other relevant provisions in Commission Regulation (EEC) Nos. 3886/92 and 3887/92 (which are all defined in regulation 2(1)).

The Regulations—

- (a) specify the period for the submission of applications for premium and prohibit the submission of more than one application in any calendar year (regulation 3);
- (b) require applicants for premium to retain specified records and other documents (regulation 4);
- (c) confer on authorised persons powers of entry and inspection as well as powers of seizure and retention of records and require that such assistance be given to them as they may reasonably request (regulations 5 and 6);
- (d) specify circumstances in which premium paid to an applicant may be recovered by the appropriate Minister and prescribe the rate of interest payable on amounts recovered in specified circumstances (regulations 7 and 8); and
- (e) create offences, prescribe penalties, specify time limits for bringing prosecutions and make provision for dealing with offences committed by corporate bodies and Scottish partnerships (regulations 9 to 12).