
STATUTORY INSTRUMENTS

2002 No. 221

Fur Farming (Compensation Scheme) (England) Order 2002

Title, commencement and extent

1. This Order, which shall extend to England only, may be cited as the Fur Farming (Compensation Scheme) (England) Order 2002 and shall come into force on 1st March 2002.

Interpretation

2.—(1) In this Order—

“the 2001 Order” means the Fur Farming (Compensation Scheme) (England) Order 2001(1);

“the Act” means the Fur Farming (Prohibition) Act 2000;

“agricultural occupancy condition” means a condition either imposed or having effect under section 70 of the Town and Country Planning Act 1990(2) by virtue of which the occupation of a dwelling is limited to a category of persons which includes persons solely or mainly working in the locality for the purposes of agriculture;

“applicant” means a person claiming to be entitled to compensation in accordance with this Order and making a first-stage application;

“asbestos” means amosite, crocidolite, chrysotile, fibrous actinolite, fibrous anthophyllite, fibrous tremolite and any mixture containing one or more of those minerals;

“associate” means any of the following—

(a) in relation to a natural person—

(i) that person’s spouse or any of that person’s relatives;

(ii) any person with whom that person, that person’s spouse or any of that person’s relatives is in partnership; or

(iii) any body corporate of which that person, that person’s spouse or any of that person’s relatives is a director or controller;

(b) in relation to a body corporate—

(i) any of its directors or controllers;

(ii) any subsidiary of the body corporate;

(iii) any of the directors or controllers of such a subsidiary;

(iv) if the body corporate is itself a subsidiary, any other subsidiary of the holding company they have in common;

(v) any director or controller of any such other subsidiary; or

(vi) any person with whom that body corporate is in partnership; or

(c) in relation to any person, the spouse or any of the relatives of any of the natural persons identified as associates elsewhere in this definition;

(1) S.I.2001/3853.

(2) 1990 c. 8. See also section 2(2) of the Planning (Consequential Provisions) Act 1990 (c. 11).

and for the purposes of this definition—

“acting in concert” means acting in accordance with an agreement or arrangement with respect to either—

- (a) the acquisition, holding or disposal of shares or other interests in a body corporate; or
- (b) the exercise of voting power in a body corporate;

“controller” means (in relation to a body corporate) any person—

- (a) in accordance with whose directions or instructions the directors of that body corporate or of any other body corporate which is its controller are accustomed to act; or
- (b) who (either alone or with any associate or with any person with whom he is acting in concert) is entitled to exercise or control the exercise of at least one-third of the voting power at any general meeting of that body corporate or of any other body corporate which is its controller;

“director” means—

- (a) in relation to a body corporate whose affairs are managed by a board of directors or similar body, a member of that board or body;
- (b) in relation to a body corporate whose affairs are managed by a single director or similar person, that director or person; or
- (c) in relation to a body corporate whose affairs are managed by the members themselves, a member of the body corporate;

“holding company” means a holding company within the meaning of section 736(1) of the Companies Act 1985⁽³⁾;

“relative” means parent (or step-parent), child (or step-child), brother, sister, uncle, aunt, nephew, niece, grandparent or grandchild; and

“subsidiary” means a subsidiary within the meaning of section 736(1) of the Companies Act 1985;

“Bank of England base rate” means the rate announced from time to time by the Monetary Policy Committee of the Bank of England⁽⁴⁾ as the official dealing rate, being the rate at which the Bank of England is willing to enter into transactions for providing short term liquidity in the money markets;

“breeding female” means a female mink kept solely or primarily for either or both of the following purposes—

- (a) breeding progeny for slaughter for the value of their fur; or
- (b) breeding progeny for sale for such slaughter;

“determination as to amount” means a determination made by the Minister under article 8 as to the amount of compensation payable to an entitled applicant;

“determination of entitlement” means a determination made by the Minister under article 5 that an applicant is entitled to compensation under this Order;

“discounted replacement cost” means (in relation to an item of equipment) the reasonable cost of replacing that item less a reasonable allowance in respect of depreciation which—

- (a) takes into account both—
 - (i) the age, condition and expected useful life of the item; and

⁽³⁾ 1985 c. 6.

⁽⁴⁾ The Monetary Policy Committee of the Bank of England was constituted on a statutory basis by section 13 of the Bank of England Act 1998 (c. 11).

- (ii) any other factors that are relevant; and
 - (b) is arrived at in accordance with UK GAAP;
- “entitled applicant” means an entitled person making a second-stage application;
- “entitled person” means a person in respect of whom a determination of entitlement has been made;
- “equipment” includes—
- (a) equipment which is attached to any land or building (as well as equipment which is not);
 - (b) specialised buildings; and
 - (c) security installations;
- “first-stage application” means an application made in accordance with article 4 and Schedule 2 for a determination of entitlement;
- “the Minister” means the Minister of Agriculture, Fisheries and Food;
- “mink” means an animal of the species *Mustela vison*;
- “non-qualifying business” means a business carried on (or formerly carried on) so far as it consists (or consisted) of activities other than keeping mink for one or more of the relevant purposes;
- “professional fees” means any fees paid by an applicant or an entitled applicant to an accountant or to a surveyor or valuer (or both) in respect of the work carried out by them in preparing a first-stage application or a second-stage application (or both);
- “qualifying business” means a business carried on (or formerly carried on) so far as it consists (or consisted) of keeping mink for one or more of the relevant purposes;
- “reference date” means (in relation to a qualifying business) the date on which the last complete accounting period prior to the cessation of the qualifying business ended; and
- “reference period” means (in relation to a qualifying business) the period of five years ending on the reference date for that qualifying business.
- “relevant planning gain” means any increase in the value of a restricted property which—
- (a) results from the removal of the agricultural occupancy condition from that property following the cessation of a qualifying business; and
 - (b) is realised on the sale of the property within three years of the date on which the entitled person ceased to carry on his qualifying business;
- “relevant purposes” means (in relation to the keeping of mink) the following purposes—
- (a) slaughter (whether by the keeper of the mink or by any other person) solely or primarily for the value of their fur;
 - (b) sale for such slaughter;
 - (c) breeding progeny for such slaughter; and
 - (d) breeding progeny for sale for such slaughter;
- “restricted property” means any property—
- (a) in which an entitled person (or any associate of that entitled person) had a freehold or leasehold interest at any time between 23rd November 2000 and the date on which the entitled person ceased to carry on his qualifying business; and
 - (b) which was subject to an agricultural occupancy condition at any time during that period.
- “second-stage application” means an application made in accordance with article 7 and Schedule 4 for a determination as to amount;

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“security installation” means any device, fence or structure installed or erected in order to retain mink within an area or to exclude any trespassers from entering an area in which mink are kept or housed;

“specialised building” means any building or structure which—

- (a) has been used solely or primarily in a qualifying business; and
- (b) cannot reasonably be used for any other purpose; and

“UK GAAP” means generally accepted accounting practice in the United Kingdom.

(2) In this Order—

- (a) any reference to a numbered article is a reference to the article so numbered in this Order;
- (b) any reference to a numbered Schedule is a reference to the Schedule to this Order so numbered in this Order; and
- (c) any reference in an article or a Schedule to a numbered paragraph is a reference to the paragraph so numbered in the article or Schedule in which the reference is made.

Compensation

3. The Minister shall pay compensation in accordance with the remaining provisions of this Order to any person who satisfies her that—

- (a) on 2nd March 1999, he—
 - (i) was carrying on a qualifying business, and
 - (ii) held a licence to keep mink in accordance with the Mink Keeping Order 1997(5);
- (b) either—
 - (i) on the date on which this Order comes into force, he had ceased, by reason of the enactment or coming into force of section 1 of the Act, to carry on his qualifying business; or
 - (ii) not later than 31st December 2002, he has ceased to do so; and
- (c) as a result, he has incurred any income losses or non-income losses (or both) of the kind specified in Schedule 1.

First-stage application

4.—(1) Schedule 2 shall apply in relation to first-stage applications and determinations of entitlement.

(2) No person may make a first-stage application—

- (a) while he continues to keep mink for one or more of the relevant purposes;
- (b) subject to article 11, more than three months after the later of—
 - (i) the date on which this Order comes into force; or
 - (ii) the date on which he ceased to carry on his qualifying business; or
- (c) subject to article 12, if he has made a first-stage application on a previous occasion.

Determination of entitlement

5.—(1) The Minister shall make a determination of entitlement in respect of any applicant where, on the basis of the information provided in that applicant’s first-stage application and any other

relevant information available to her, it appears to her that he fulfils the requirements set out in article 3.

(2) The Minister shall also make a determination of entitlement in respect of an applicant if either—

- (a) an arbitrator finds in favour of the applicant following a reference by agreement in accordance with section 5(5) of the Act; or
- (b) the Lands Tribunal finds in favour of the applicant following a reference in accordance with section 5(6) of the Act.

(3) The Minister may revoke a determination of entitlement at any time within six years of the date on which it was originally made if—

- (a) either—
 - (i) she believes that any information supplied to her in support of a first-stage application was inaccurate in any material respect, or
 - (ii) new information, which is relevant and material to a first-stage application, becomes available to her; and
- (b) she is satisfied that the person in respect of whom the determination of entitlement was made does not fulfil the requirements set out in article 3.

(4) Where the Minister either—

- (a) does not make a declaration of entitlement in respect of an applicant, or
- (b) revokes a determination of entitlement in respect of any person,

she may, if she is satisfied that the person fulfils the requirements set out in paragraphs (a) and (b) of article 3, make a payment to that person in respect of any reasonable professional fees paid by him.

Interim payment

6. The Minister shall, within six weeks of making a determination of entitlement, pay to the entitled person in respect of whom it was made the following amounts—

- (a) an interim payment calculated in accordance with the provisions of Schedule 3; and
- (b) interest on that amount at 1 per cent per annum over the Bank of England base rate from the date on which that entitled person's first-stage application was received by the Minister until the date on which the payment is made by the Minister.

Second-stage application

7.—(1) Schedule 4 shall apply in relation to second-stage applications and determinations as to amount.

(2) No person may make a second-stage application—

- (a) unless he is an entitled person;
- (b) subject to article 11, more than six months after the date on which the Minister notified him that she had made a determination of entitlement in respect of him; or
- (c) subject to article 12, if he has made a second-stage application on a previous occasion.

Determination as to amount

8.—(1) The Minister shall make a determination as to amount in respect of an entitled applicant specifying the amount which, on the basis of the information provided in that entitled applicant's

second-stage application and any other relevant information available to her, she considers is due to that entitled applicant in accordance with the provisions of Schedule 5.

(2) The Minister may revise a determination as to amount either—

- (a) in accordance with paragraph 8(1)(a) of Schedule 4;
- (b) following an arbitration in accordance with section 5(5) of the Act; or
- (c) following a reference to the Lands Tribunal in accordance with section 5(6) of the Act.

(3) The Minister shall revise a determination as to amount in accordance with paragraph (2) above to the extent (if any) that either—

- (a) an arbitrator finds in favour of the applicant following a reference by agreement in accordance with section 5(5) of the Act; or
- (b) the Lands Tribunal finds in favour of the applicant following a reference in accordance with section 5(6) of the Act.

(4) The Minister may also revise a determination as to amount at any time within six years of the date on which it was originally made if—

- (a) either—
 - (i) she believes that any information supplied to her in support of a second-stage application was inaccurate in any material respect, or
 - (ii) new information (including information relating to a change in circumstances), which is relevant and material to a second-stage application, becomes available to her; and
- (b) she is satisfied that the amount payable to the person in respect of whom the determination as to amount was made is different from the amount specified in the determination as to amount.

(5) Where there has been a change of circumstances which is relevant and material to a second-stage application, the Minister may revise a determination as to amount under paragraph (4) above, irrespective of whether or not—

- (a) the information provided in the second-stage application was correct at the time when it was submitted to her, or
- (b) the amount specified in the original determination as to amount was correctly calculated on the basis of the information provided in the second-stage application and any other relevant information available to her at the time.

(6) Where the Minister revises a determination as to amount in accordance with this article, she shall notify the person in respect of whom the determination as to amount was made that she has done so and paragraphs 6 to 12 of Schedule 4 shall apply.

(7) Where—

- (a) a person in respect of whom a determination as to amount has been made subsequently realises a relevant planning gain on the sale of a restricted property, and
- (b) the amount to be deducted in accordance with Part IX of Schedule 5 from the compensation otherwise payable to that entitled applicant is equal to or exceeds the amount payable in accordance with Parts III to VIII of Schedule 5,

the Minister shall specify in her revised determination as to amount that the amount of compensation payable to that person is zero.

(8) A determination as to amount made in respect of any person whose determination of entitlement is revoked in accordance with article 5(4) shall automatically be revoked.

Payment of compensation

9.—(1) The Minister shall, within six weeks of the date on which she receives written notification under paragraph 6(1) of Schedule 4 or paragraph 9(1) of Schedule 4 (as the case may be) that a determination as to amount has been accepted, pay to the person in respect of whom it was made the following amounts—

- (a) the amount specified in the determination as to amount; and
- (b) subject to paragraphs (3), (4) and (5) below, interest on that amount at 1 per cent per annum over the Bank of England base rate for the period from the date on which that person's first-stage application was received by the Minister until the date on which the payment is made by the Minister.

(2) If, after nine months has elapsed from the date on which the Minister first notifies an entitled applicant in accordance with paragraph 3(b) of Schedule 4 or paragraph 5 of Schedule 4 (as the case may be) of her determination as to amount, the Minister has not received written notification under paragraph 6(1) of Schedule 4 or paragraph 9(1) of Schedule 4 (as the case may be) from that entitled applicant as to whether or not he accepts the determination as to amount, the Minister may pay to the entitled applicant—

- (a) the amount specified in the determination as to amount; and
- (b) subject to paragraphs (3) and (4) below, interest on that amount at 1 per cent per annum over the Bank of England base rate for the period from the date on which that person's first-stage application was received by the Minister until, as the case may be—
 - (i) the date three months after the date on which the Minister made a determination as to amount in respect of that entitled applicant in accordance with paragraph 3(b) of Schedule 4;
 - (ii) the date three months after the date on which the Minister made a determination as to amount in respect of that entitled applicant in accordance with paragraph 5 of Schedule 4;
 - (iii) the date one month after the date on which the Minister made a revised determination as to amount in respect of that entitled applicant in accordance with paragraph 8(1)(a) of Schedule 4; or
 - (iv) the date one month after the date on which the Minister confirmed her original determination as to amount in accordance with paragraph 8(1)(b) of Schedule 4.

(3) Interest shall not be payable in accordance with paragraphs (1)(b) or (2)(b) above on any amount payable in accordance with Parts IV, VI, VII or VIII of Schedule 5 for any period prior to the date on which the payment, judgment, arbitral award or settlement to which the amount relates was made.

(4) Interest shall not be payable in accordance with paragraphs (1)(b) or (2)(b) above in respect of any period from the date two months after the date on which the Minister notified the person to whom interest is payable that she had made a determination of entitlement in respect of that person until the date on which that person's second-stage application was received by the Minister.

(5) If a person to whom interest is payable in accordance with paragraph (1)(b) above did not notify the Minister as to whether or not he had accepted the determination as to amount within the time limit provided for in paragraph 6(1) of Schedule 4 or paragraph 9(1) of Schedule 4 (as the case may be), interest shall not be payable in accordance with paragraph (1)(b) above in respect of any period from the date on which that time limit expired until the date on which he notified the Minister in accordance with paragraph 6(1) of Schedule 4 or paragraph 9(1) of Schedule 4 (as the case may be) that he had accepted the determination as to amount made in respect of him.

Recovery of any overpayment

10.—(1) Where a determination of entitlement is revoked by the Minister in accordance with article 5(3), the following amounts shall immediately become payable to the Minister by the person in respect of whom the determination of entitlement had been made—

- (a) any amount paid to that person by the Minister under article 6;
- (b) any amount paid to that person by the Minister under article 9; and
- (c) interest on those amounts at 1 per cent per annum over the Bank of England base rate from the date of payment until the date of repayment.

(2) Where a determination as to amount is revised by the Minister in accordance with article 8(4) and the amount specified in the revised determination as to amount (“the revised amount”) is less than the the amount specified in the original determination as to amount (“the original amount”), the following amounts shall immediately become payable to the Minister by the person in respect of whom the determination as to amount had been made—

- (a) the difference between the original amount and the revised amount; and
- (b) subject to paragraph (3) below, interest on that amount at 1 per cent per annum over the Bank of England base rate from the date of the original payment until the date of repayment.

(3) To the extent (if any) that the difference referred to in paragraph (2)(a) above results from a relevant planning gain realised on the sale of a restricted property after the date of the original payment, interest shall not be payable on that difference for any period prior to the date on which the relevant planning gain was realised.

(4) Subject to paragraph (5) below, any amount payable to the Minister in accordance with paragraph (1) or (2) above shall be recoverable as a civil debt.

(5) The Minister shall not take any steps to enforce payment of any amount payable to her under this article until the procedures set out in Schedule 2 or Schedule 4 (as the case may be) have been exhausted.

Power to extend time limits

11.—(1) The Minister may, if she thinks fit in a particular case, extend any of the time limits provided for in the following provisions of this Order—

- (a) article 4(2)(b);
- (b) article 7(2)(b);
- (c) articles 9(4) and 9(5);
- (d) paragraphs 4, 6(1), 6(2) and 8 of Schedule 2; and
- (e) paragraphs 4, 6(1), 6(2), 7(1), 7(2), 9(1), 9(2), 10(1) and 10(2) of Schedule 4.

(2) The Minister may extend a time limit in accordance with paragraph (1) above even if it has already expired.

Power to permit further applications

12. Notwithstanding articles 4(2)(c) and 7(2)(c), the Minister may, if she thinks fit in a particular case, permit a person who has already made a first-stage application or a second-stage application to make a further first-stage application or second-stage application (as the case may be).

Transitional provision for first-stage applications made under the 2001 Order

13.—(1) Any first-stage application made in accordance with the 2001 Order prior to the coming into force of this Order shall be treated as if it had been made in accordance with this Order.

(2) Where paragraph (1) above applies, the dates on which the first-stage application was made and on which it was received by the Minister for the purposes of the 2001 Order shall be treated as the dates on which it was respectively made and received for the purposes of this Order.

Revocation of the 2001 Order

14. The 2001 Order is revoked.

Elliot Morley
Parliamentary Under-Secretary of State,
Department for Environment, Food and Rural
Affairs

5th February 2002

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Fur Farming (Compensation Scheme) (England) Order 2002. Any changes that have already been made by the team appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- [Order revoked by S.I. 2004/1964 art. 11](#)