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STATUTORY INSTRUMENTS

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**2004 No. 1964**

**The Fur Farming (Compensation Scheme) (England) Order 2004**

**Title, commencement and application**

1. This Order, which applies to England, may be cited as the Fur Farming (Compensation Scheme) (England) Order 2004 and shall come into force on 31st August 2004.

**Interpretation**

2.—(1) In this Order—

“the 2002 Order” means the Fur Farming (Compensation Scheme) (England) Order 2002<sup>(1)</sup>;

“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<sup>(2)</sup> 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 “application” shall be construed accordingly;

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

“associate” has the meaning ascribed to it in Schedule 1;

“determination as to amount” means a determination made by the Secretary of State under article 6 as to the amount of compensation payable to an entitled applicant;

“determination of entitlement” means a determination made by the Secretary of State 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

(ii) any other factors that are relevant, and

(b) is arrived at in accordance with UK GAAP;

“entitled applicant” 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

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(1) S.I.2002/221.

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

(c) security installations;

“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 to an accountant or to a surveyor or valuer (or both) in respect of the work carried out by them in preparing an application;

“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;

“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, and
- (b) sale for such slaughter;

“restricted property” means any property—

- (c) 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
- (d) which was subject to an agricultural occupancy condition at any time during that period;

“Secretary of State” means the Secretary of State for Environment, Food and Rural Affairs;

“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.

## Compensation

**3.** The Secretary of State shall pay compensation in accordance with the following provisions of this Order to any applicant 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(3);

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(3) S.I. 1997/3002.

- (b) not later than 31st December 2002, he had ceased, by reason of the enactment or coming into force of section 1 of the Act, to carry on his qualifying business; and
- (c) as a result, he has incurred any income losses or non-income losses (or both) of the kind specified in Schedule 2.

#### **Application for compensation**

- 4. Schedule 3 shall apply in relation to an application.

#### **Determination of entitlement to compensation**

- 5.—(1) Schedule 4 shall apply in relation to a determination of entitlement.

(2) The Secretary of State shall make a determination of entitlement in respect of any applicant where, on the basis of the information provided in that applicant's application and any other relevant information available to her, it appears to her that he fulfils the requirements set out in article 3.

(3) The Secretary of State 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.

(4) The Secretary of State 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 an application was inaccurate in any material respect, or
  - (ii) new information, which is relevant and material to an 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.

(5) Where the Secretary of State either—

- (a) does not make a determination 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.

#### **Determination as to amount**

- 6.—(1) Schedule 5 shall apply in relation to a determination as to amount.

(2) The Secretary of State 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 application and any other relevant information available to her, she considers is due to that entitled applicant in accordance with the provisions of Schedule 6.

(3) The Secretary of State may revise a determination as to amount either—

- (a) in accordance with paragraph 6(1)(a) of Schedule 5;
- (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.

(4) The Secretary of State shall revise a determination as to amount in accordance with paragraph (3) 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.

(5) The Secretary of State 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 an 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 an 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.

(6) Where there has been a change of circumstances which is relevant and material to an application, the Secretary of State may revise a determination as to amount under paragraph (5), irrespective of whether or not—

- (a) the information provided in the 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 application and any other relevant information available to her at the time.

(7) Where the Secretary of State 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 4 to 9 of Schedule 5 shall apply.

(8) 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 9 of Schedule 6 from the compensation otherwise payable to that entitled applicant is equal to or exceeds the amount payable in accordance with Parts 3 to 8 of Schedule 6,

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

(9) 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**

7.—(1) The Secretary of State shall, within six weeks of the date on which she receives written notification under paragraph 4(1) of Schedule 5 or paragraph 7(1) of Schedule 5 (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 amount specified in the determination as to amount.

(2) If, after nine months has elapsed from the date on which the Secretary of State first notifies an entitled applicant in accordance with paragraph 1(b) of Schedule 5 or paragraph 3 of Schedule 5 (as the case may be) of her determination as to amount, the Secretary of State has not received written

notification under paragraph 4(1) of Schedule 5 or paragraph 7(1) of Schedule 5 (as the case may be) from that entitled applicant as to whether or not he accepts the determination as to amount, the Secretary of State may pay to the entitled applicant the amount specified in the determination as to amount.

### **Recovery of any overpayment**

**8.—**(1) Subject to paragraph (3), where a determination of entitlement is revoked by the Secretary of State in accordance with article 5(4), the amount paid to that person by the Secretary of State under article 7 shall immediately become payable to the Secretary of State by the person in respect of whom the determination of entitlement had been made.

(2) Subject to paragraph (3), where a determination as to amount is revised by the Secretary of State in accordance with article 6(5) and the amount specified in the revised determination as to amount (“the revised amount”) is less than the amount specified in the original determination as to amount (“the original amount”), the difference between the original amount and the revised amount shall immediately become payable to the Secretary of State by the person in respect of whom the determination as to amount had been made.

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

### **Power to extend time limits**

**9.—**(1) The Secretary of State 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) paragraphs 2, 4(1), 4(2) and 6 of Schedule 4; and

(b) paragraphs 2, 4(1), 4(2), 5(1), 5(2), 7(1), 7(2), 8(1) and 8(2) of Schedule 5.

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

### **Transitional provisions for applications made under the 2002 Order**

**10.—**(1) Any application made in accordance with the 2002 Order shall be treated as if it had been made in accordance with this Order.

(2) Any payment made to an entitled applicant pursuant to article 6(a) of the 2002 Order shall be deemed to comprise part of the determination of amount under this Order.

(3) Where paragraph (1) applies, the application shall be deemed to have been made and received by the Secretary of State on the date of coming into force of this Order.

### **Revocation of the 2002 Order**

**11.** The 2002 Order is revoked.

*Ben Bradshaw*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

23rd July 2004

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Fur Farming (Compensation Scheme) (England) Order 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- Sch. 6 Pt. 6 para. 14(a)(i) words inserted by [S.I. 2012/632 Sch. 3](#)
- Sch. 6 Pt. 6 para. 14(a)(ii) words inserted by [S.I. 2012/632 Sch. 3](#)

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

- Order revoked by [S.I. 2015/663 art. 3\(b\)](#)

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 6 Pt. 6 para. 14(a)(i)(ii) words inserted by [S.I. 2006/2739 reg. 36\(2\)Sch. 5](#)
- reg. 5(3)(b) words substituted by [S.I. 2009/1307 Sch. 2 para. 97](#)
- reg. 6(3)(c) words substituted by [S.I. 2009/1307 Sch. 2 para. 98](#)
- reg. 6(4)(b) words substituted by [S.I. 2009/1307 Sch. 2 para. 98](#)