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SCOTTISH STATUTORY INSTRUMENTS

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**2001 No. 445**

**AGRICULTURE**

**The Beef Special Premium (Scotland) Regulations 2001**

*Made* - - - - 28th November 2001  
*Laid before the Scottish Parliament* - - - - 29th November 2001  
*Coming into force* - - 1st January 2002

The Scottish Ministers in exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>(1)</sup> and of all other powers enabling them in that behalf, hereby make the following Regulations:

**PART I**

**Introduction**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Beef Special Premium (Scotland) Regulations 2001 and shall come into force on 1st January 2002.

(2) These Regulations extend to Scotland and, insofar as they extend beyond Scotland, do so only as a matter of Scots law.

**Interpretation**

2.—(1) In these Regulations—

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

“authorised person” means a person who is authorised by the Scottish Ministers, either generally or specifically, to act in matters arising under these Regulations;

“beef special premium” means one or more of the first premium, the second premium and the bull premium;

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<sup>(1)</sup> 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.

“bovine animal” means a male bovine animal within the meaning of Article 1(2)(a) of Council Regulation 1254/1999;

“bovine animal in the first age bracket” means a steer which on the date of the commencement of the retention period for it is not less than seven months old but is less than 20 months old;

“bovine animal in the second age bracket” means a steer which on the date of the commencement of the retention period for it is not less than 20 months old;

“bull” means an uncastrated bovine animal which on the date of the commencement of the retention period for it is not less than seven months old;

“bull premium” means the premium payable in respect of bulls, pursuant to Article 4(2)(a) of Council Regulation 1254/1999;

“cattle passport” means, in relation to a bovine animal–

- (a) to which the Cattle Passports Order 1996(2) applied, a cattle passport as defined in article 2(2) of that Order;
- (b) to which Article 6(1) of Council Regulation 820/1997 applied, a valid cattle passport issued pursuant to that Article; and
- (c) to which Article 6(1) of Regulation 1760/2000 applies, a valid cattle passport issued pursuant to that Article;

“Commission Regulation 3887/1992” means Commission Regulation (EEC) No. 3887/92 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes(3) (as amended by Commission Regulation (EC) No. 229/1995(4), Commission Regulation (EC) No. 1648/1995(5), Commission Regulation (EC) No. 2015/1995(6), Commission Regulation (EC) No. 1678/1998(7), Commission Regulation (EC) No. 2801/1997(8), Commission Regulation (EC) No. 2721/2000(9) and Commission Regulation (EC) No. 882/2001(10));

“Commission Regulation 2629/1997” means Commission Regulation (EC) No. 2629/1997 laying down detailed rules for the implementation of Council Regulation (EC) No. 820/1997 as regards eartags, holding registers and passports in the framework of the system for the identification and registration of bovine animals(11) (as amended by Commission Regulation (EC) No. 1177/1998(12), Commission Regulation (EC) No. 2194/1998(13), Commission Regulation (EC) No. 331/1999(14), Commission Regulation (EC) No. 1663/1999(15) and Commission Regulation (EC) No. 1606/2000(16));

“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(17) (as amended by Commission Regulation (EC) No. 1042/2000(18), Commission Regulation

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(2) S.I.1996/1686, revoked by S.I. 1998/871.

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

(4) O.J. No. L 27, 04.02.95, p.3.

(5) O.J. No. L 156, 07.07.95, p.27.

(6) O.J. No. L 197, 22.08.95, p.2.

(7) O.J. No. L 212, 20.07.98, p.23.

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

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

(10) O.J. No. L 123, 04.05.01, p.20.

(11) O.J. No. L 354, 30.12.97, p.19.

(12) O.J. No. L 163, 06.06.98, p.19.

(13) O.J. No. L 276, 13.10.98, p.4.

(14) O.J. No. L 40, 13.02.99, p.27.

(15) O.J. No. L 197, 29.07.99, p.27.

(16) O.J. No. L 185, 25.07.00, p.16.

(17) O.J. No. L 281, 04.11.99, p.30.

(18) O.J. No. L 118, 19.05.00, p.4.

(EC) No. 1900/2000(19), Commission Regulation (EC) No. 2733/2000(20), Commission Regulation (EC) No. 192/2001(21) and Commission Regulation (EC) No. 1458/2001(22);

“Council Regulation 820/1997” means Council Regulation (EC) No. 820/1997 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products(23);

“Council Regulation 1254/1999” means Council Regulation (EC) No. 1254/1999 on the common organisation of the market in beef and veal(24) (as amended by Council Regulation (EC) No. 1455/2001(25) and Council Regulation (EC) No. 1512/2001(26));

“eartag number” means–

- (a) the number of an eartag attached to a bovine animal as the approved identification required by article 4(1) of the Bovine Animals (Identification, Marking and Breeding Records) Order 1990(27);
- (b) an eartag number as defined in article 2(1) of the Bovine Animals (Records, Identification and Movement) Order 1995(28);
- (c) the unique identification code referred to in Article 4(1) of Council Regulation 820/1997; or
- (d) the unique identification code referred to in Article 4(1) of Regulation 1760/2000, as the case may be;

“first premium” means the premium payable in respect of bovine animals in the first age bracket, pursuant to the first indent of Article 4(2)(b) of Council Regulation 1254/1999;

“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(29);

“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;

“national administrative document” means the administrative document provided for in Article 4(3)(b) of Council Regulation 1254/1999 and issued by the Scottish Ministers;

“official veterinary surgeon” means an official veterinary surgeon designated under regulation 8 of the Fresh Meat (Hygiene and Inspection) Regulations 1995(30);

“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;

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(19) O.J. No. L 228, 08.09.00, p.25.

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

(21) O.J. No. L 29, 31.01.01, p.27.

(22) O.J. No. L 194, 18.07.01, p.4.

(23) O.J. No. L 117, 07.05.97, p.1, repealed by Regulation (EC) No. 1760/2000 of the European Parliament and of the Council (O.J. No. L 204, 11.08. 00, p.1).

(24) O.J. No. L 160, 26.06. 99, p.21.

(25) O.J. No. L 198, 21.07.01, p.58.

(26) O.J. No. L 201, 26.07.01, p.1.

(27) S.I. 1990/1867, revoked by S.I. 1995/12.

(28) S.I. 1995/12, to which there are amendments not relevant to these Regulations.

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

(30) S.I. 1995/539; relevant amending instruments are S.S.I. 2000/62 and 171.

“person who has applied for a national administrative document” means a person who has applied for a national administrative document under regulation 5 or a duplicate or replacement national administrative document under regulation 9 and shall include a person who has been issued with such document under either of those regulations;

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

“regional ceiling” means the maximum number of–

- (a) bovine animals in the first age bracket; and
- (b) bulls,

entitled to benefit from first premium or bull premium, as the case may be, in the United Kingdom in any calendar year, and referred to in Article 4(4) of, and Annex I to, 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 regarding the labelling of beef and beef products and repealing Council Regulation (EC) No. 820/1997(31) (as amended by Commission Regulation (EC) No. 2258/2000(32));

“relevant competent authority” has the same meaning as in the IACS Regulations;

“retention period” means the retention period for bovine animals referred to in Article 4(3) (a) of Council Regulation 1254/1999 and starting, subject to regulation 14, as provided for in Article 5 of Commission Regulation 2342/1999;

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

“second premium” means the premium payable in respect of bovine animals in the second age bracket, pursuant to the second indent of Article 4(2)(b) of Council Regulation 1254/1999;

“specified control measure” means any check which a member State is required to carry out under Article 6 of Commission Regulation 3887/1992;

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

- (a) regulation 17(1);
- (b) article 9(1) of the Bovine Animals (Identification, Marking and Breeding Records) Order 1990;
- (c) article 5(1) of the Bovine Animals (Records, Identification and Movement) Order 1995;
- (d) article 7(1) and (4) of Council Regulation 820/1997 and the Cattle Identification (Enforcement) Regulations 1997(33);
- (e) article 7(1) and (4) of Council Regulation 820/1997 and the Cattle Identification Regulations 1998(34); or
- (f) article 7(1) and (4) of Regulation 1760/2000 and the Cattle Identification Regulations 1998;

“steer” means a castrated bovine animal; and

“unsuitable supplementary feeding methods” means providing supplementary feed (other than to mainstream livestock during abnormal weather conditions) in such a manner as to result in

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(31) O.J. No. L 204, 11.08.00, p.1.

(32) O.J. No. L 258, 12.10.00, p.26.

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

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

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 admits, the same meanings as in Council Regulation 1254/1999, Commission Regulation 2342/1999 and Commission Regulation 3887/92.

(3) Unless the context otherwise requires, 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. These Regulations shall apply to an applicant and to any person applying or to a person who has applied for a national administrative document to the extent that the Scottish Ministers are the relevant competent authority in relation to the holding of that applicant or person for the purposes of the IACS Regulations.

## **PART II**

### **National administrative documents**

#### **Application of regulations 5 to 9**

4. Regulations 5 to 9 shall not apply in relation to any bovine animal in respect of which a cattle passport—

- (a) has been issued; or
- (b) may be granted pursuant to Part III of the Cattle Identification Regulations 1998.

#### **National administrative documents**

5.—(1) A national administrative document shall take the form of a document accompanying each individual bovine animal in accordance with Article 4(3)(a) of Commission Regulation 2342/1999.

(2) A person holding a bovine animal for which no national administrative document has been issued may apply to the Scottish Ministers for a national administrative document for that bovine animal.

(3) An application for a national administrative document shall be made in such form, and shall be accompanied by such information about the bovine animal to which that application relates, as the Scottish Ministers may reasonably require.

(4) Subject to paragraph (5), the Scottish Ministers shall, following the receipt of an application made pursuant to paragraph (2), issue to the person who made that application a national administrative document in respect of the bovine animal to which that application related.

(5) The Scottish Ministers shall not issue a national administrative document in respect of any bovine animal where any requirement of Article 4 of Regulation 1760/2000, Articles 1 to 3 of Commission Regulation 2629/1997 or Part II of the Cattle Identification Regulations 1998 (eartags) is being contravened in relation to that bovine animal.

#### **Sale, purchase and movement of bovine animals**

6. No person shall—

- (a) sell or purchase a bovine animal;
- (b) transfer or take possession of a bovine animal; or
- (c) move a bovine animal other than from one part of any premises to another,

unless that bovine animal is accompanied by a national administrative document in respect of it.

#### **Loss, theft or export of bovine animals**

7. On the loss, theft or export from the United Kingdom of a bovine animal in respect of which a national administrative document has been issued, the person holding the national administrative document in respect of that animal shall, within seven days of that loss, theft or export, surrender that document to the Scottish Ministers.

#### **Slaughter and death of bovine animals**

8.—(1) Immediately on the arrival of a bovine animal at a licensed slaughterhouse, the person holding that bovine animal shall give the national administrative document in respect of that bovine animal, to the operator of that slaughterhouse.

(2) On the slaughter of a bovine animal at a licensed slaughterhouse, the operator of that slaughterhouse shall, within seven days of that slaughter, surrender the national administrative document in respect of that bovine animal to the Scottish Ministers and, for the purposes of this paragraph, the surrender of that national administrative document to the official veterinary surgeon shall be treated as its surrender to the Scottish Ministers.

(3) On the death of a bovine animal other than by slaughter at a licensed slaughterhouse, the person holding that bovine animal at the time of death shall, within seven days of that death, surrender the national administrative document in respect of that animal to the Scottish Ministers.

#### **Duplicate or replacement national administrative documents**

9.—(1) Where a bovine animal which has been lost or stolen is subsequently restored to the person who surrendered the national administrative document in respect of it pursuant to regulation 7, that person may apply to the Scottish Ministers for a duplicate of that national administrative document.

(2) Where a national administrative document issued in respect of a bovine animal has been lost, stolen or destroyed, the person then holding that bovine animal may apply to the Scottish Ministers for a duplicate of that national administrative document.

(3) Where, in the event of the replacement of an eartag on a bovine animal in respect of which a national administrative document has been issued, the eartag number identifying that bovine animal is replaced with a different eartag number, the person holding that bovine animal may apply to the Scottish Ministers for a replacement national administrative document in respect of that bovine animal.

(4) Following the receipt of an application made under this regulation, together with, in the case of an application made pursuant to—

- (a) paragraph (1), such details relating to the bovine animal concerned and such proof as the Scottish Ministers may reasonably require regarding that bovine animal's loss or theft and subsequent restoration;
- (b) paragraph (2), such proof as the Scottish Ministers may reasonably require regarding the loss, theft or destruction of the national administrative document concerned; or
- (c) paragraph (3), such proof as the Scottish Ministers may reasonably require regarding the replacement of the eartag number in question,

the Scottish Ministers shall, save where any requirement specified in regulation 5(5) is being contravened in relation to that bovine animal, issue to the person making that application a duplicate or replacement national administrative document, as the case may be.

## PART III

### Beef special premium

#### Applications for first premium

**10.**—(1) Subject to paragraph (2), a producer retaining a bovine animal in the first age bracket on their holding may apply to the Scottish Ministers for first premium in respect of that animal in relation to a given scheme year.

(2) No application for first premium shall be made by a producer—

- (a) if, pursuant to Article 10(2) of Commission Regulation 3887/1992, the producer is prohibited from making such an application for the scheme year in question;
- (b) in respect of a bovine animal for which first premium has already been paid;
- (c) in respect of a bovine animal for which first premium has been applied for but for which payment is outstanding; or
- (d) in respect of a bovine animal for which an application for first premium has previously been made, but on which that premium has not been paid as a result of the application of the provisions contained in Article 3 of Commission Regulation 2342/1999.

#### Applications for second premium

**11.**—(1) Subject to paragraph (2), a producer retaining a bovine animal in the second age bracket on their holding may apply to the Scottish Ministers for second premium in respect of that animal in relation to a given scheme year.

(2) No application for second premium shall be made by a producer—

- (a) if, pursuant to Article 10(2) of Commission Regulation 3887/1992, the producer is prohibited from making such an application for the scheme year in question;
- (b) in respect of a bovine animal for which second premium has already been paid;
- (c) in respect of a bovine animal for which second premium has been applied for but for which payment is outstanding; or
- (d) in respect of a bovine animal for which an application for second premium has previously been made, but on which that premium has not been paid as a result of the application of the provisions contained in Article 3 of Commission Regulation 2342/1999.

#### Applications for bull premium

**12.**—(1) Subject to paragraph (2), a producer retaining a bull on their holding may apply to the Scottish Ministers for bull premium in respect of that animal in relation to a given scheme year.

(2) No application for bull premium shall be made by a producer—

- (a) if, pursuant to Article 10(2) of Commission Regulation 3887/1992, the producer is prohibited from making such an application for the scheme year in question;
- (b) in respect of a bovine animal for which bull or first premium has already been paid;
- (c) in respect of a bovine animal for which bull premium has been applied for but for which payment is outstanding; or

- (d) in respect of a bovine animal for which an application for bull premium has previously been made, but on which that premium has not been paid as a result of the application of the provisions contained in Article 3 of Commission Regulation 2342/1999.

### **Specific requirements relating to applications for beef special premium**

**13.**—(1) An application for beef special premium shall be made at such time, in such form and shall include such information as the Scottish Ministers may require.

(2) No application for beef special premium shall be accepted by the Scottish Ministers unless that application is accompanied by the cattle passport or national administrative document in respect of each bovine animal to which that application relates.

(3) A producer may not make more than twenty applications for beef special premium during any scheme year.

(4) In respect of any application made to the Scottish Ministers for beef special premium—

- (a) for the purposes of the first indent of Article 4(5) of Council Regulation 1254/1999, the headage limit of 90 bovine animals per holding and per age bracket shall not apply; and
- (b) for the purposes of the second indent of that Article, where the regional ceiling has been exceeded, a proportionate reduction in the number of bovine animals entitled to benefit from the beef special premium shall not be applied to any application for beef special premium made by a small producer.

(5) For the purpose of paragraph (4), “small producer” means an applicant who has, for the scheme year in question, made one or more applications for beef special premium in respect of no more than 30 bovine animals in total, which animals shall not include bovine animals—

- (a) covered by an application for beef special premium which has subsequently been withdrawn by the applicant; or
- (b) withdrawn from an application for beef special premium as a result of errors notified by the applicant to the Scottish Ministers pursuant to Article 11(1a) of Commission Regulation 3887/1992<sup>(35)</sup>.

### **Commencement of retention period**

**14.** For the purpose of Article 5 of Commission Regulation 2342/1999, an applicant may, when making an application for beef special premium, specify the starting date for the commencement of the retention period for the bovine animals specified in the applicant’s application in accordance with the second paragraph of that Article.

### **Overgrazing**

**15.**—(1) Subject to paragraph (3), where in the year preceding 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 notice specifying the maximum number of bovine animals which may be grazed and maintained on that parcel in that scheme year and containing such conditions as they consider appropriate.

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

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<sup>(35)</sup> Article 11(1a) was inserted by Commission Regulation (EC) No. 1678/1998 (O.J. No. L 212, 30.07.98, p.23).



(3) The Scottish Ministers may, if they are satisfied that in the year preceding any given scheme year overgrazing occurred on the land concerned, serve a notice under paragraph (1), notwithstanding that there is no evidence that the parcel of land to which it relates is being overgrazed, if—

- (a) the Scottish Ministers have previously served a notice under paragraph (1); or
- (b) the Scottish Ministers have served a notice under any of the provisions specified in paragraph (6),

in respect of that parcel of land.

(4) Where the Scottish Ministers have served a notice under paragraph (1) or under any of the provisions specified in paragraph (6), no beef special premium shall be paid in respect of the scheme year for which the notice was issued on any number of bovine 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 served a notice under paragraph (1) and are satisfied that—

- (a) any condition contained in that notice has been breached; or
- (b) more bovine 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 recover on demand as a debt, the whole or any part of the beef special premium payable or, as the case may be, 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 11 of the Beef Special Premium Regulations 1996<sup>(36)</sup>;
- (b) regulation 3A of the Suckler Cow Premium Regulations 1993<sup>(37)</sup>;
- (c) regulation 5 of the Suckler Cow (Scotland) Premium Regulations 2001<sup>(38)</sup>;
- (d) regulation 3A of the Sheep Annual Premium Regulations 1992<sup>(39)</sup>; and
- (e) regulation 10 of the Hill Livestock (Compensatory Allowances) (Scotland) Regulations 1999<sup>(40)</sup>.

### **Unsuitable supplementary feeding methods**

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

- (a) in accordance with paragraph (2), reduce or withhold the amount of beef special premium otherwise payable to the applicant in respect of that scheme year; or
- (b) where such beef special 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 beef special premium payable to the applicant may be reduced by ten per cent; where the applicant was penalised in the preceding scheme year, but not in the scheme year before that, that amount may be reduced by twenty per cent; and where the applicant was penalised in each of the two preceding scheme years that amount may be withheld.

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<sup>(36)</sup> S.I. 1996/324, revoked by these Regulations.

<sup>(37)</sup> S.I. 1993/1441; relevantly amended by S.I. 1994/1528 which inserted regulation 3A and revoked by S.S.I. 2001/225.

<sup>(38)</sup> S.S.I. 2001/225.

<sup>(39)</sup> S.I. 1992/2677; relevantly amended by S.I. 1994/2741 which inserted regulation 3A.

<sup>(40)</sup> S.S.I. 1999/187.

- (3) The provisions referred to in paragraph (2) are—
- (a) regulation 12 of the Beef Special Premium Regulations 1996;
  - (b) regulation 3B of the Suckler Cow Premium Regulations 1993<sup>(41)</sup>;
  - (c) regulation 6 of the Suckler Cow Premium (Scotland) Regulations 2001;
  - (d) regulation 3B of the Sheep Annual Premium Regulations 1992<sup>(42)</sup>; and
  - (e) regulations 7 and 8 of the Hill Livestock (Compensatory Allowances) (Scotland) Regulations 1999.

### **Retention of records**

17.—(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 bovine animals kept on the applicant’s holding during the period of two months following that date; and
- (b) any transaction concerning bovine animals carried out by that applicant on that date and during the period of twelve months following that date.

(2) For the purpose of paragraph (1), “relevant date” means the date on which the applicant’s application for beef special premium was received by the Scottish Ministers.

## **PART IV**

### **General**

#### **Powers of authorised persons**

18.—(1) An authorised person may at all reasonable hours, on producing, if so required, some duly authenticated document showing the authorised person’s 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 22(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—

- (a) a person who has applied for a national administrative document; or
- (b) an applicant.

(3) An authorised person who has entered any land by virtue of paragraph (2)(a) may inspect, identify and count any bovine animals on that land.

(4) An authorised person who has entered any land by virtue of paragraph (2)(b) may—

- (a) inspect and verify the total area of land, including forage area, farmed by an applicant;
- (b) inspect, identify and count any bovine animals 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.

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(41) Regulation 3B was inserted by S.I. [1994/1528](#).

(42) Regulation 3B was inserted by S.I. [1994/2741](#).

(5) An authorised person entering any land by virtue of this regulation may be accompanied by such other persons as the authorised person considers necessary.

(6) An authorised person may—

- (a) require a person who has applied for a national administrative document, an applicant, or any employee or agent of that person or applicant, to produce any specified record and to supply any additional information in the possession or under the control of that person or applicant, relating to an application for a national administrative document or beef special premium, as the case may be;
- (b) require a person who is selling a bovine animal in respect of which a national administrative document has been issued to produce or cause to be produced that national administrative document;
- (c) inspect any cattle passport, national administrative document or specified record and, where any specified 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;
- (d) require that copies of, or extracts from, any cattle passport, national administrative document or specified record be produced; and
- (e) seize and retain any 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 is visible and legible and may be taken away.

#### **Assistance to authorised persons**

19. A person who has applied for a national administrative document, an applicant or any employee or agent of that person or applicant shall give an authorised person (or a person accompanying that person and acting under that person's instructions) all reasonable assistance in relation to the matters mentioned in regulation 18 and in particular, in relation to any bovine animals, shall arrange for the collection, penning and securing of such bovine animals, if so requested.

#### **Withholding or recovery of beef special premium**

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

- (a) comply with the requirements of regulation 17(1);
- (b) comply with the requirements of Article 7(4) of Regulation 1760/2000 and the Cattle Identification Regulations 1998; or
- (c) in the 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 beef special premium payable or, as the case may be, paid to that applicant in respect of that scheme year.

(2) Where an applicant intentionally obstructs an authorised person (or a person accompanying that person and acting under that person's instructions) in the exercise of a power under regulation 18, or fails without reasonable excuse to comply with a request made by an authorised person when exercising such a power, the Scottish Ministers may withhold or recover on demand as a debt, the whole or any part of any beef special premium payable or, as the case may be, paid to that applicant in respect of that scheme year.

(3) Where a person, other than an applicant intentionally obstructs an authorised person (or a person accompanying that person and acting under that person's instructions) in the exercise of a power under regulation 18, or fails without reasonable excuse to comply with a request made by an

authorised person when exercising such a power, the Scottish Ministers may where such person was at the time of such obstruction or failure, an employee or agent of an applicant, withhold or recover from the applicant on demand as a debt, the whole or any part of any beef special premium payable, or as the case may be, paid to that applicant in respect of that scheme year.

### **Rate of interest**

**21.**—(1) For the purpose of, and in accordance with, Article 14(1) of Commission Regulation 3887/1992, 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.

(2) In any proceedings for recovery under paragraph (1), a certificate issued by the Scottish Ministers stating the rate or rates of interest, the amount of such interest recoverable and the period for which such interest is calculated, shall unless the contrary is shown, be conclusive of those matters.

### **Offences**

**22.** It shall be an offence for a person—

- (a) without reasonable excuse, to fail to comply with the provisions of regulations 6, 7, 8 or 17(1);
- (b) intentionally to obstruct an authorised person in the exercise of a power under regulation 18;
- (c) without reasonable excuse, to fail to comply with a request for assistance made under regulation 19; 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 17(1); or
  - (ii) for the purposes of obtaining for that person or any other person the whole or any part of any beef special premium.

### **Punishment of offences**

**23.**—(1) A person guilty of an offence under regulation 22(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 22(d) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Time limit for prosecutions**

**24.**—(1) Proceedings for an offence under regulation 22 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<sup>(43)</sup> (date of commencement of proceedings) shall apply for the purposes of this regulation as it applies for the purposes of that section.

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(43) 1995 c. 46.

### **Offences by bodies corporate**

**25.**—(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) 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**

**26.**—(1) Subject to paragraph (2), the following provisions are revoked:—

- (a) the Beef Special Premium Regulations 1996(**44**);
- (b) regulation 36(4) of the Cattle Passport Identification Regulations 1998(**45**); and
- (c) the Beef Special Premium (Amendment) Regulations 1999(**46**).

(2) Paragraph (1) above shall not affect the continued operation of regulations 11 to 21 of the Beef Special Premium Regulations 1996 in respect of Community premium (within the meaning of those Regulations) paid under those Regulations.

(3) In the Schedule to the Integrated Administration and Control System (Amendment) Regulations 2000(**47**) the entry “The Beef Special Premium Regulations 1996” shall be omitted.

Pentland House,  
Edinburgh  
28th November 2001

*ROSS FINNIE*  
A member of the Scottish Executive

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(44) S.I. 1996/3241, amended by S.I. 1998/871, 1999/1179 and 2000/2573.

(45) S.I. 1998/871.

(46) S.I. 1999/1179.

(47) S.I. 2000/2573.

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## EXPLANATORY NOTE

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

These Regulations, which extend to Scotland only, consolidate with amendments the Beef Special Premium Regulations 1996 and the Beef Special Premium (Amendment) Regulations 1999.

The Regulations implement measures for the beef special premium scheme provided for in Article 4 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 holdings situated wholly in Scotland and holdings situated partly in Scotland and partly elsewhere in the United Kingdom, where the Scottish Ministers are the competent authority in respect of an application for beef special premium.

The main change effected by these Regulations is that, in respect of any application for beef special premium, the headage limit of 90 bovine animals per holding and per age bracket has been waived (regulation 13). Regulation 13 also introduces a limit on the number of applications for beef special premium that may be made by a producer in a given year and, in respect of a small producer (as defined), disapplies the reduction in the number of animals entitled to benefit from the premium where the regional ceiling (also as defined) is exceeded.

The Regulations also—

- (a) make provision relating to the form and issue of a national administrative document (regulation 5). This implements Article 4(3)(a) of Commission Regulation (EC) No. 2342/1999 which lays down detailed rules for the application of Council Regulation (EC) No. 1254/99. Article 4(3)(a) enables member States to provide that a national administrative document shall take the form of a document accompanying each individual animal. A corresponding provision which requires that each animal be accompanied by a passport is contained in Article 6(2) of Regulation 1760/2000 of the European Parliament and Council which establishes a system for the identification and registration of bovine animals and deals with the labelling of beef products;
- (b) require that a bovine animal is accompanied by its national administrative document when sold, purchased and moved (regulation 6);
- (c) make provision relating to the surrender of a national administrative document on the loss, theft, export, slaughter or death (other than by slaughter) of a bovine animal (regulations 7 and 8);
- (d) make provision regarding the duplication or replacement of a national administrative document (regulation 9);
- (e) make provision for the making of an application for beef special premium, including the requirement that the application is accompanied by the cattle passport or national administrative document issued in respect of all animals included in the application (regulations 10 to 13);
- (f) enable an applicant to set the starting date for the commencement of the retention period for the animals specified in the application (regulation 14);
- (g) enable beef special premium otherwise payable to be reduced or withheld and any such premium already paid to be recovered where excessive numbers of bovine animals are being grazed and maintained on land which the Scottish Ministers have identified as being overgrazed (regulation 15);

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- (h) enable beef special premium otherwise payable to be reduced or withheld and any such premium already paid to be recovered, if the applicant uses unsuitable supplementary feeding methods (regulation 16). Regulations 15 and 16 are included in the Regulations in implement of Article 3 of Council Regulation (EC) No. 1259/99 which establishes common rules for direct support schemes under the common agricultural policy;
- (i) require an applicant to retain specified documents (regulation 17);
- (j) confer powers of entry, inspection and collection of evidence on authorised persons (regulations 18 and 19). These include the powers required under Article 6 of Commission Regulation (EC) No. 3887/92 which lays down detailed rules for applying the integrated administration and control system for certain Community aid schemes;
- (k) provide for the withholding or recovery of beef special premium where there is a breach of the scheme rules (regulation 20) and prescribe the rate of interest that may be charged on any sums recovered (regulation 21);
- (l) create offences and lay down penalties (regulations 22 and 23);
- (m) specify time limits for bringing prosecutions (regulation 24);
- (n) make provision for offences committed by bodies corporate (regulation 25); and
- (o) revoke a number of provisions in consequence, subject to a saving (regulation 26).

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