
SCOTTISH STATUTORY INSTRUMENTS

2001 No. 445

The Beef Special Premium (Scotland) Regulations 2001

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.

(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(1) (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

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(2);

(1) 1995 c. 46.

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

Status: This is the original version (as it was originally made).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

- (b) regulation 36(4) of the Cattle Passport Identification Regulations 1998⁽³⁾; and
- (c) the Beef Special Premium (Amendment) Regulations 1999⁽⁴⁾.

(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⁽⁵⁾ the entry “The Beef Special Premium Regulations 1996” shall be omitted.

⁽³⁾ S.I. 1998/871.
⁽⁴⁾ S.I. 1999/1179.
⁽⁵⁾ S.I. 2000/2573.