

1975 No. 2210

## AGRICULTURE

**The Hill Livestock (Compensatory Allowances)  
Regulations 1975***Laid before Parliament in draft*

Made - - - - 18th December 1975

Coming into Operation 1st January 1976

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales, being Ministers designated<sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(b)</sup> in relation to the Common Agricultural Policy of the European Economic Community, acting jointly, in exercise of the powers conferred by the said section 2(2), and of all their other enabling powers, hereby make the following regulations:—

*Citation, extent and commencement*

1. These regulations, which may be cited as the Hill Livestock (Compensatory Allowances) Regulations 1975, shall apply throughout the United Kingdom, and shall come into operation on 1st January 1976.

*Interpretation*

2.—(1) In these regulations, unless the context otherwise requires—

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the use of land for other agricultural purposes, and “agricultural” shall be construed accordingly;

“the appropriate Minister” means—

(a) in relation to England and Northern Ireland, and in relation to Wales for the purpose of the making, receipt or recovery of any payment, the Minister of Agriculture, Fisheries and Food,

(b) in relation to Wales, save for the purpose of the making, receipt or recovery of any payment, the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales, acting jointly, and

(c) in relation to Scotland, the Secretary of State for Scotland;

“approved breed” means any hardy breed or cross breed of sheep approved by the appropriate Minister for the purposes of these regulations, being a breed or cross breed which is suitable for breeding and rearing on land in respect of which the severity of the permanent natural handicaps affecting the breeding and rearing of sheep on that land is greater than that affecting the breeding and rearing of sheep on eligible land generally;

(a) S.I. 1972/1811 (1972 III, p. 5216).

(b) 1972 c. 68.

“breeding cow” means a female bovine animal, comprised in a regular breeding herd, which is not maintained primarily for the production of milk and which, on or before a qualifying day, has either borne a calf, or to the satisfaction of the appropriate Minister has been brought into the herd primarily for the purpose of replacing such an animal and is suitable for that purpose;

“eligible land” means land of not less than three hectares, being land—

- (a) situated in an area which is included in the list of less-favoured farming areas adopted by the Council of Ministers of the European Economic Community under Article 2(2) of Council Directive No. 75/268/EEC of 28th April 1975(a) and consists predominantly of mountains, hills or heath, and
- (b) which is, or by improvement could be made, suitable for use for the breeding, rearing and maintenance of sheep or cattle but not, in the opinion of the appropriate Minister, for the carrying on, to any material extent, of dairy farming, the production, to any material extent, of fat sheep or fat cattle or the production of crops in quantity materially greater than that necessary to feed the number of sheep or cattle capable of being maintained on the land;

“ewe” means a female sheep which, on a qualifying day, is more than one year old;

“hill sheep land” in relation to Scotland means eligible land suitable for use for the maintenance of sheep of a hardy breed, but not of sheep of other breeds;

“occupier” includes a person who has a right to use eligible land for the purpose of grazing cattle or sheep;

“qualified flock” means a flock of ewes which is kept on eligible land, or on eligible land and other land used with it, for the breeding and rearing of lambs, and which is, in the opinion of the appropriate Minister, maintained and managed in accordance with sound husbandry practice;

“qualifying day” means, in respect of any year in which a compensatory allowance may be paid under these regulations, 1st January in that year;

“regular breeding herd” means a herd of cattle which is kept on eligible land, or on eligible land and other land used with it, and which—

- (a) has, on a qualifying day, been in existence for a period of at least six months,
- (b) is, in the opinion of the appropriate Minister, maintained primarily for the purpose of breeding and rearing calves, and
- (c) is, in the opinion of the appropriate Minister, reasonably constant in its composition and maintained and managed in accordance with sound husbandry practice;

“retirement pension” means—

- (a) in relation to Great Britain, a category A and category B pension within the meaning of section 12(1)(f) of the Social Security Act 1975(b), and a category C and category D pension within the meaning of section 34(1)(e) of that Act, and

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(a) OJ No. L.128, 19.5.1975, p. 1.

(b) 1975 c. 14.

(b) in relation to Northern Ireland, a category A and category B pension within the meaning of section 12(1)(f) of the Social Security (Northern Ireland) Act 1975(a), and a category C and category D pension within the meaning of section 34(1)(e) of that Act;

“specially qualified flock” means a qualified flock of which all, or in the opinion of the appropriate Minister substantially all, of the ewes comprised in that flock are of an approved breed, and which, in Scotland, is maintained or substantially maintained on hill sheep land;

“unit of account” means a unit of account of the European Economic Community, and any reference to a specified number of units of account shall be taken to be a reference to the sterling equivalent of that number of units of account at the qualifying day in any year in respect of which a compensatory allowance may be paid, calculated at such rate as may appear to the appropriate Minister, having regard to any relevant provisions of any instrument issued by that Community, to be appropriate.

(2) Where, in Scotland, any agricultural unit consists in part only of eligible land, that land or any part thereof shall be deemed for the purposes of these regulations not to be eligible land unless, in the opinion of the appropriate Minister, such land or such part thereof would be suitable to be dealt with as a separate unit which is capable, having regard to the number of other animals normally grazed thereon, of maintaining a regular breeding herd or a qualified flock.

(3) The Interpretation Act 1889(b) applies for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

#### *Compensatory allowances*

3.—(1) Subject to the provisions of these regulations, the appropriate Minister may, in respect of the year 1976 and each succeeding year, pay to any person who is at the beginning of the qualifying day in that year the occupier of eligible land, a compensatory allowance for cattle and sheep maintained by him on that day, being cattle comprised in a regular breeding herd and sheep comprised in a qualified flock.

(2) Subject to regulation 4 below, a compensatory allowance for cattle shall be payable in respect of the number of breeding cows comprised in a herd on a qualifying day and shall consist of an amount per breeding cow of £24.50 or 50 units of account, whichever is the less.

(3) Subject to regulation 5 below, a compensatory allowance for sheep shall be payable in respect of the number of ewes comprised in a flock on a qualifying day, and shall—

(a) in the case of a ewe of an approved breed comprised in a specially qualified flock, consist of an amount per ewe of £3.60 or 7.50 units of account, whichever is the less; and

(b) in the case of any other ewe, consist of an amount per ewe of £2.85 or 7.50 units of account, whichever is the less.

(4) Notwithstanding the provisions of paragraphs (2) and (3) above, the total amount of a compensatory allowance which may be paid to the occupier of eligible land in respect of any year shall not exceed 50 units of account for each hectare of eligible land which appears to the appropriate Minister

(a) 1975 c. 15.

(b) 1889 c. 63.

to have been available to that occupier throughout the greater part of the preceding year for the maintenance of his herd or flock.

(5) A compensatory allowance in respect of any year shall only be paid to an occupier of eligible land if (except in the case of such an occupier who is in receipt of a retirement pension) he enters into a written undertaking in such form as the appropriate Minister may require to the effect that he will, for a period of five years from the qualifying day in that year, continue to use eligible land for agricultural purposes.

*Provisions with respect to cattle*

4.—(1) Subject to the following provisions of this regulation, where the appropriate Minister is of the opinion that the number of breeding cows comprised in a regular breeding herd on a qualifying day is greater or less than the number of breeding cows which he is satisfied has been the number normally comprised in that herd throughout the preceding year or, in the case of a herd newly established or re-established in that year, throughout such shorter period as the appropriate Minister may determine (including, as breeding cows for this purpose heifers which have become, or would in his opinion have become, breeding cows by that qualifying day), a compensatory allowance shall be payable in relation to that qualifying day in respect of the number of breeding cows which the appropriate Minister is satisfied is the number of breeding cows which has been normally so comprised in the herd.

(2) For the purposes of paragraph (1) above, the appropriate Minister may disregard any temporary reduction in numbers where he is satisfied that such reduction was or is due to deaths or disposals of cows, and those cows have been or will be suitably replaced as soon as reasonably practicable.

(3) Where the appropriate Minister is satisfied that—

- (a) the number of breeding cows comprised in a regular breeding herd on a qualifying day is less than the number normally comprised in that herd, and that the reduction is due to the slaughter of cows in the herd in the course of brucellosis eradication, and
- (b) the person to whom a compensatory allowance in respect of that herd may be paid will make satisfactory arrangements for those animals to be suitably replaced in the herd as soon as reasonably practicable, and for repayment of any compensatory allowance paid in respect of any such animal in the event of its not being so replaced,

a compensatory allowance shall be payable in relation to that qualifying day in respect of such number of breeding cows as would, in the opinion of the appropriate Minister, have been comprised in that herd on that qualifying day had its numbers not been reduced by reason of such slaughter.

(4) Where, in the opinion of the appropriate Minister, an appreciable quantity of milk has been produced by a regular breeding herd in the period of 12 months immediately preceding a qualifying day, and such milk has been sold or used for the making of cheese for sale, a compensatory allowance shall be payable in relation to that qualifying day in respect of the number of breeding cows comprised in the herd on that day reduced by such number as appears to the appropriate Minister to be the number of cows in the herd required to produce that quantity of milk in that period.

(5) Notwithstanding the foregoing provisions of these regulations, the number of breeding cows in respect of which compensatory allowance may be

paid in relation to any qualifying day shall not exceed either of the following numbers, that is to say—

- (a) where the number of calves produced by the herd in the year preceding that day is, in the opinion of the appropriate Minister, unusually low for a herd of its size, such number of breeding cows as he considers to be reasonable, regard being had to the number of calves so produced; or
- (b) the number of breeding cows which, in the opinion of the appropriate Minister, the land on which the herd was substantially grazed and maintained in the year preceding that day was capable of carrying without overgrazing it, taking into account the number of animals grazed and maintained on that land in that year.

*Provisions with respect to sheep*

5.—(1) A compensatory allowance for sheep shall not be paid in respect of any ewe the use of which for breeding would not, in the opinion of the appropriate Minister, be in accordance with sound husbandry practice.

(2) Subject to paragraph (1) above, and notwithstanding the foregoing provisions of these regulations, the number of ewes of an approved breed and the number of ewes of any other breed in respect of which compensatory allowance may be paid in relation to any qualifying day shall respectively not exceed the number of ewes of each of such breeds as the appropriate Minister may determine are comprised in a determination by him or as the case may be a calculation of any of the following numbers, that is to say—

- (a) the number of ewes which the appropriate Minister may determine as the number of ewes which he is satisfied has been comprised in the flock throughout the greater part of the year preceding that day or, in the case of a flock newly established or re-established in that year, throughout such shorter period thereof as the appropriate Minister may determine, disregarding—
  - (i) any seasonal variation in number, and
  - (ii) any losses which he is satisfied have been or will be made good, or cannot reasonably be made good, within a reasonable period;
- (b) where the number of lambs produced by the flock in the year preceding that day is, in the opinion of the appropriate Minister, unusually low for a flock of its size, such number of ewes as he may determine to be reasonable, regard being had to the number of lambs so produced;
- (c) a number calculated at the rate of six ewes for each hectare of eligible land which the appropriate Minister is satisfied was available for the maintenance of the flock throughout the greater part of the year preceding that day, or throughout such shorter period of that year as is referred to in sub-paragraph (a) above; or
- (d) the number of ewes which the appropriate Minister determines to be the number which the land on which the flock was substantially grazed and maintained in the year preceding that day was, in his opinion, capable of carrying without overgrazing, taking into account the number of animals grazed and maintained on the land in that year.

*Power of appropriate Minister to apportion eligible land in certain cases*

6. Where any land is grazed—

- (a) by more than one regular breeding herd,

(b) by more than one qualified flock, or

(c) by breeding cows comprised in a regular breeding herd and ewes comprised in a qualified flock,

the appropriate Minister may, for the purpose of determining whether any person is the occupier of eligible land, apportion the land so grazed among the occupiers thereof as he thinks reasonable in the circumstances.

*Restriction on subsidy payment to occupiers of eligible land*

7. Notwithstanding the provisions of any scheme made under section 12 of the Agriculture Act 1967(a), an occupier of eligible land, whether or not he applies for or receives a compensatory allowance under these regulations in respect of the year 1976 or any succeeding year, shall not be eligible to receive for any cattle maintained by him on that land any subsidy payment payable in accordance with or by virtue of any such scheme in relation to those years in respect of any cattle to which any such scheme applies.

*Applications for compensatory allowances*

8.—(1) Payment of a compensatory allowance shall not be made unless an application for that payment has been submitted to the appropriate Minister in such form and at such time as he may require.

(2) If a person authorised by the appropriate Minister so requires, the herd or flock to which an application relates shall be gathered together at a convenient place for the purpose of counting and inspection, and such documents or records as may be required by the appropriate Minister shall be produced for inspection in support of any application.

(3) In any counting of sheep, a reasonable allowance may be made for dead or ungathered animals.

*Release from undertaking*

9. A person in receipt of a compensatory allowance under these regulations shall be released from the undertaking referred to in regulation 3(5) above where—

(a) he ceases farming in accordance with the provisions of Article 2(1) of Council Directive No. 72/160/EEC of 17th April 1972(b) (which formulates measures designed to ensure the cessation of farming and the re-allocation of utilised agricultural areas for the purposes of structural improvement);

(b) he is in receipt of a retirement pension; or

(c) he is prevented from continuing to discharge that undertaking by reason of—

(i) any material circumstances beyond his control, or

(ii) the compulsory purchase of his eligible land, or the eligible land used by him for the grazing of animals, or its purchase in the public interest.

*Recovery of compensatory allowances*

10. Where any person—

(a) with a view to obtaining payment to himself or to any other person of a compensatory allowance under these regulations, makes any statement which is untrue or misleading in a material particular, or

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(a) 1967 c. 22.

(b) OJ No. L.96, 23.4.1972, p. 9.

(b) having given an undertaking under regulation 3(5) above, fails in any way to comply with the terms thereof, or

(c) fails to replace animals in accordance with regulation 4(2) or (3) above in respect of which a compensatory allowance has been paid under the provisions of these regulations,

the appropriate Minister shall be entitled to recover on demand as a civil debt the whole or any part of any compensatory allowance paid to him or to such other person.

*Offences*

11. If any person, for the purpose of obtaining for himself or any other person a compensatory allowance under these regulations, knowingly or recklessly makes a false statement, he shall be liable—

(a) on summary conviction to a fine not exceeding £100 or imprisonment for a term not exceeding three months or both, or

(b) on conviction on indictment to a fine not exceeding £400 or to imprisonment for a term not exceeding two years or both.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 18th December 1975.

(L.S.)

*Frederick Peart,*  
Minister of Agriculture, Fisheries and Food.

18th December 1975.

*William Ross,*  
Secretary of State for Scotland.

18th December 1975.

*John Morris,*  
Secretary of State for Wales.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations, which apply throughout the United Kingdom, implement part of Directive 75/268 of the Council of the European Economic Community, which is designed to assist farmers in the less-favoured farming areas. They introduce a system of payments of annual compensatory allowances for the breeding and rearing of cattle and sheep in such areas.

In order to qualify for a compensatory allowance in respect of any year, a person must on the qualifying day in that year be occupying at least three hectares of eligible land (as defined in the regulations) and be maintaining cattle comprised in a regular breeding herd or sheep comprised in a qualified flock (both of which terms are also defined in the regulations). Except in the case of a person in receipt of a state retirement pension, he is also required to give an undertaking that he will continue to farm at least three hectares of eligible land for the period of five years from the 1st January (the qualifying day) in the year in respect of which the allowance is paid.

A compensatory allowance is payable in respect of the number of breeding cows comprised in a herd, or the number of ewes comprised in a flock, on the qualifying day in the year in question. The appropriate Minister is given power to adjust that number in the circumstances set out in the regulations. In the case of breeding cows, the amount of the allowance is £24.50 or 50 units of account, whichever is the less. In the case of ewes, however, a distinction is drawn between those of an approved breed which form part of a specially qualified flock (as defined in the regulations), and other ewes in respect of which an allowance may be paid. In the former case, the rate of £3.60 or 7.50 units of account (whichever is the less), and in the latter case, £2.85 or 7.50 units of account (whichever is the less). In any year, the overall payment to any person is restricted to a maximum of 50 units of account for each hectare of eligible land available to him for the maintenance of the herd or flock.

The regulations contain provisions entitling the recipients of a compensatory allowance to be released from his five-year undertaking in certain specified circumstances. Provision is also made for the recovery of compensatory allowance in certain cases, and for offences arising out of false claims.

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