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STATUTORY INSTRUMENTS

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**1996 No. 1500**

**AGRICULTURE**

**The Hill Livestock (Compensatory Allowances) Regulations 1996**

<i>Made</i>	- - - -	<i>10th June 1996</i>
<i>Laid before Parliament</i>		<i>10th June 1996</i>
<i>Coming into force</i>	- -	<i>1st July 1996</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated<sup>(1)</sup> for the purposes of subsection (2) of section 2 of the European Communities Act 1972<sup>(2)</sup> in relation to the common agricultural policy of the European Community, acting jointly in exercise of the powers conferred upon them by that subsection and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Title, extent and commencement**

1. These Regulations may be cited as the Hill Livestock (Compensatory Allowances) Regulations 1996, shall extend to Great Britain and shall come into force on 1st July 1996.

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, the Minister of Agriculture, Fisheries and Food; and
- (b) in relation to any other part of Great Britain, the Secretary of State;

“authorised person” means a person (whether or not an officer of the Minister concerned) who is authorised by the appropriate Minister, either generally or specially, to act in matters arising under these Regulations;

“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 the day of

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(1) S.I.1972/1811.  
(2) 1972 c. 68.

lodgement of a claim for a compensatory allowance for it has borne a calf and on that day is capable of lactation;

“claimant” means a person who has made a claim for a compensatory allowance under these Regulations;

“Commission Regulation 2385/91” means Commission Regulation (EEC) No. 2385/91 laying down detailed rules for certain special cases regarding the definition of sheepmeat and goatmeat producers and producer groups(3);

“Commission Regulation 3887/92” means Commission Regulation (EEC) No. 3887/92 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes(4);

“compensatory allowance” means the allowance payable under regulation 3;

“Council Regulation 805/68” means Council Regulation (EEC) No. 805/68 on the common organisation of the market in beef and veal(5);

“Council Regulation 3493/90” means Council Regulation (EEC) No. 3493/90 laying down general rules for the grant of premiums to sheepmeat and goatmeat producers(6);

“Council Regulation 3508/92” means Council Regulation (EEC) No.3508/92 establishing an integrated administration system for certain Community aid schemes(7);

“Council Regulation 3813/92” means Council Regulation (EEC) No. 3813/92 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy(8);

“Council Regulation 3320/94” means Council Regulation (EC) No. 3320/94 on the consolidation of the existing Community legislation on the definition of the ecu following the entry into force of the Treaty on European Union(9);

“designated maps” means—

- (a) in relation to England, the 3 volumes of maps numbered 1 to 3, each such volume being marked “volume of maps of less-favoured farming areas in England” and with the number of the volume, dated 20th May 1991, signed and sealed by the Minister of Agriculture, Fisheries and Food and deposited at the offices of the Ministry of Agriculture, Fisheries and Food at Nobel House, 17 Smith Square, London SW1P 3HX;
- (b) in relation to Wales, the 2 volumes of maps numbered 1 and 2, both volumes being marked “volume of maps of less-favoured farming areas in Wales” and with the number of the volume, dated 20th May 1991, signed by the Secretary of State for Wales and deposited at the offices of the Welsh Office Agriculture Department at Cathays Park, Cardiff CF1 3NQ;
- (c) in relation to Scotland, the 4 maps numbered 1 to 4, each such map being marked “map of less-favoured farming areas in Scotland” and with the number of the map, dated 15th May 1991, signed by the Secretary of State for Scotland and deposited at the offices of the Scottish Office Agriculture and Fisheries Department at Pentland House, 47 Robb’s Loan, Edinburgh EH14 1TW;

“disadvantaged land”(except in the expression “severely disadvantaged land”) means—

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(3) OJ No. L219, 7.8.91, p.15, as last amended by Commission Regulation (EC) No. 2569/95 (OJ No. L262, 1.11.95, p.32).  
(4) OJ No. L391, 31.12.92, p.36, as last amended by Commission Regulation (EC) No. 2015/95 (OJ No. L197, 22.8.95, p.2).  
(5) OJ No. L148, 28.6.68, p.24 (OJ/SE Vol. I p.187), as last amended by Commission Regulation (EC) No. 2417/95 (OJ No. L248, 14.10.95, p.39).  
(6) OJ No. L337, 4.12.90, p.7, as last amended by Council Regulation (EC) No. 233/94 (OJ No. L30, 3.2.94, p.9).  
(7) OJ No. L355, 5.12.92, p.1, as last amended by Council Regulation (EC) No. 3072/95 (OJ No. L329, 30.12.95, p.18).  
(8) OJ No. L387, 31.12.92, p.1, as last amended by Council Regulation (EC) No. 150/95 (OJ No. L22, 31.1.95, p.1); “agricultural conversion rate” is defined in Article 1(c).  
(9) OJ No. L350, 31.12.94, p.27.

- (a) in relation to land situated in England and Wales, the land shown coloured blue on the designated maps; and
- (b) in relation to land situated in Scotland, land shown coloured blue or coloured pink on the designated maps, and—
  - (i) which is in the opinion of the appropriate Minister inherently suitable for extensive livestock production but not for the production of crops in quantity materially greater than that necessary to feed such livestock as are capable of being maintained on that land, and
  - (ii) whose agricultural production is in the opinion of the appropriate Minister restricted (but not severely restricted) in its range by or by any combination of soil, relief, aspect or climate;

“ECU” means the unit of account used in legal instruments relating to the common agricultural policy of the European Community as defined in Council Regulation 3320/94, and any reference in these Regulations to a specified number of ECU in relation to a compensatory allowance shall be taken to be a reference to the sterling equivalent of that number of ECU converted into sterling at the agricultural conversion rate (as determined in accordance with Council Regulation 3813/92) applicable on 1st January in the Scheme year in respect of which the compensatory allowance is paid;

“eligible land” means an area of land of not less than 3 hectares which is severely disadvantaged land or disadvantaged land;

“ewe” means a female sheep comprised in a qualified flock which, on 1st January in any Scheme year, is at least one year old;

“forage area” has the same meaning as in the second indent of Article 4g(3) of Council Regulation 805/68;

“hardy breed or hardy cross-breed” means a breed or as the case may be cross-breed of sheep which is in the opinion of the appropriate Minister suitable for breeding and rearing on land where the severity of the permanent natural handicaps affecting the breeding and rearing of sheep on it is greater than that affecting the breeding and rearing of sheep on severely disadvantaged land generally;

“husbandry practice” includes practice in relation to the grazing and feeding of livestock;

“livestock unit” means a unit of measurement of livestock numbers and a single livestock unit equals—

- (a) 1 breeding cow;
- (b) 1 in-calf bovine animal used to replace a breeding cow in accordance with regulation 6(1);
- (c) 6.67 ewes; or
- (d) 6.67 female sheep (not being ewes) used to replace ewes in accordance with regulation 6(2);

“the 1995 Order” means the Bovine Animals (Records, Identification and Movement) Order 1995(10);

“the 1996 Order” means the Sheep and Goats (Records, Identification and Movement) Order 1996(11);

“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

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(10) S.I. 1995/12.

(11) S.I. 1996/28.

to destruction) on that land to a significant degree, and “overgrazed” shall be construed accordingly;

“production unit” has the same meaning as in Council Regulation 3508/92;

“qualified flock” means a flock of sheep which is usually kept on a production unit which includes disadvantaged land or severely disadvantaged land and which is, in the opinion of the appropriate Minister—

- (a) maintained primarily for the purpose of breeding and rearing lambs; and
- (b) maintained and managed in accordance with sound husbandry practice, and includes a “specially qualified flock”;

“regular breeding herd” means a herd of cattle which is usually kept on a production unit which includes disadvantaged land or severely disadvantaged land and which is, in the opinion of the appropriate Minister—

- (a) maintained primarily for the purpose of breeding and rearing calves; and
- (b) maintained and managed in accordance with sound husbandry practice;

“the 1975 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1975(12);

“the 1978 Regulations” means the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978(13);

“the 1979 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1979(14);

“the 1984 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1984(15);

“the 1992 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1992(16);

“the 1993 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1993(17);

“the 1994 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1994(18);

“relevant afforested land” means land which in the opinion of the appropriate Minister was converted to forest on or after 1st January 1986 and before 1st January 1988 by or on behalf of a person to whom a compensatory allowance was paid in respect of the land under the 1975 Regulations, the 1979 Regulations or the 1984 Regulations before the date when the conversion to forest was completed; but land shall cease to be relevant afforested land for the purposes of these Regulations 15 years after the date when such conversion was completed;

“retirement pension” means a category A and category B pension within the meaning of section 20(1)(f) of the Social Security Contributions and Benefits Act 1992(19), a category C and category D pension within the meaning of section 63(f) of that Act, or graduated retirement benefit as referred to in Schedule 1 to the 1978 Regulations;

“Scheme year” means 1997 and each succeeding calendar year;

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(12) S.I. 1975/2210, amended by S.I. 1976/1203, S.I. 1977/1960 and S.I. 1979/941 and revoked by S.I. 1979/1748.

(13) S.I. 1978/393, to which there are amendments not relevant to these Regulations.

(14) S.I. 1979/1748, amended by S.I. 1980/2028, S.I. 1981/1843 and S.I. 1982/1886 and revoked by S.I. 1984/2024.

(15) S.I. 1984/2024, amended by S.I. 1985/2075, S.I. 1987/2129, S.I. 1991/392 and S.I. 1991/1439 and revoked, insofar as they applied to Northern Ireland, by S.R. (N.I.) 1987 No. 92 and, insofar as they applied to Great Britain, by S.I. 1992/269.

(16) S.I. 1992/269, amended by S.I. 1993/70 and revoked by S.I. 1993/2631.

(17) S.I. 1993/2631, amended by S.I. 1993/2924 and S.I. 1994/94 and revoked by S.I. 1994/2740.

(18) S.I. 1994/2740, amended by S.I. 1995/100, S.I. 1995/1481, S.I. 1995/2778 and S.I. 1996/27 and revoked by these Regulations.

(19) 1992 c. 4.

“severely disadvantaged land” means—

- (a) in relation to land situated in England and Wales—
  - (i) the land shown coloured pink on the designated maps, or
  - (ii) land situated in the Isles of Scilly; and
- (b) in relation to land situated in Scotland, land shown coloured pink on the designated maps, and—
  - (i) which is in the opinion of the appropriate Minister inherently suitable for extensive livestock production but not for the production of crops in quantity materially greater than that necessary to feed such livestock as are capable of being maintained on that land, and
  - (ii) whose agricultural production is in the opinion of the appropriate Minister severely restricted in its range by or by any combination of soil, relief, aspect or climate;

“the 1992 Sheep Regulations” means the Sheep Annual Premium Regulations 1992<sup>(20)</sup>;

“specially qualified flock” means a qualified flock—

- (a) in which all or, in the opinion of the appropriate Minister, substantially all of the ewes comprised in the flock are of any hardy breed or hardy cross-breed;
- (b) in which the ewes are in the opinion of the appropriate Minister maintained in 3 distinct age groups; and
- (c) which in England and Wales is maintained on severely disadvantaged land or on severely disadvantaged land and other land used with it, and in Scotland is maintained or substantially maintained on severely disadvantaged land suitable for use for the maintenance of a hardy breed or hardy cross-breed but not sheep of other breeds;

“specified control measure” means any check which a member state is required to carry out under Article 6 of Commission Regulation 3887/92;

“the 1993 Suckler Cow Regulations” means the Suckler Cow Premium Regulations 1993<sup>(21)</sup>;

“unsuitable supplementary feeding methods” means providing supplementary feed (other than to maintain livestock during abnormal weather conditions) in such a manner as to result in damage to vegetation through excessive trampling or poaching of the land by animals or excessive rutting by vehicles.

(2) In these Regulations—

- (a) any reference to a retention period for ewes applicable to a given Scheme year is a reference to the minimum period for which the animals concerned shall have to be kept by the relevant claimant following a claim by him for a compensatory allowance for those animals in respect of that given Scheme year, and which is 100 days (starting on the last date for lodging that claim, as specified in paragraph (2) of regulation 8);
- (b) any reference to a retention period for breeding cows applicable to a given Scheme year is a reference to the minimum period for which the animals concerned shall have to be kept by the relevant claimant following a claim by him for a compensatory allowance for those animals in respect of that given Scheme year, and which is 6 months (starting on the day following the date of lodgement of that claim, as required by paragraph (1) of regulation 8).

(3) Any reference in these Regulations to a Community instrument is a reference to that instrument as amended on the date these Regulations are made.

(4) Where in Scotland an agricultural unit consists in part only of land which is disadvantaged land or severely disadvantaged land the land so designated shall not be regarded as disadvantaged

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<sup>(20)</sup> S.I. 1992/2677, amended by S.I. 1994/2741, S.I. 1995/2779 and S.I. 1996/49.

<sup>(21)</sup> S.I. 1993/1441, amended by S.I. 1994/1528, S.I. 1995/15 and S.I. 1995/1446.

land or as the case may be severely disadvantaged land unless in the opinion of the appropriate Minister it would be suitable to be dealt with as a separate unit which is capable, having regard to the number of other animals normally grazed on it, of maintaining a regular breeding herd or a qualified flock.

- (5) Any reference in these Regulations to—
- (a) a numbered regulation (with no corresponding reference to a specific instrument) is a reference to the regulation in these Regulations so numbered; and
  - (b) a numbered paragraph (with no corresponding reference to a specific regulation) is a reference to the paragraph so numbered in the regulation in which the reference appears.

### **Compensatory allowances for breeding cows and ewes**

**3.—**(1) The appropriate Minister may in respect of any Scheme year and in accordance with the following provisions of these Regulations pay to any person who in the year prior to that Scheme year submitted a valid area aid application under Article 6 of Council Regulation 3508/92 which indicated eligible land a compensatory allowance for each breeding cow and ewe which was—

- (a) owned; or
- (b) leased under a formal leasing arrangement,

by him throughout the retention period for the animal concerned applicable to the Scheme year in question, at the rate of 20.3 ECU per breeding cow and 3.045 ECU per ewe.

(2) A compensatory allowance in respect of any Scheme year shall be paid to a person only if (except in the case of a person who is in receipt of a retirement pension) he has entered into a written undertaking in such form as the appropriate Minister may reasonably require to the effect that he will, for a period of five years from the first payment of a compensatory allowance made under these Regulations, the 1994 Regulations, the 1993 Regulations, the 1992 Regulations or the 1984 Regulations, continue to use eligible land for agricultural purposes.

(3) The total amount of a compensatory allowance which may be paid in respect of any Scheme year—

- (a) to the occupier of severely disadvantaged land, shall not exceed £88.70 or 150 ECU for each hectare of such land which was included in an area aid application made under Article 6 of Council Regulation 3508/92 in the calendar year preceding that year and was determined by the appropriate Minister to be eligible forage area for the purposes of that Regulation or which is relevant afforested land; or
- (b) to the occupier of disadvantaged land, shall not exceed £60.85 or 150 ECU for each hectare of such land which was included in an area aid application made under Article 6 of Council Regulation 3508/92 in the calendar year preceding that year and was determined by the appropriate Minister to be eligible forage area for the purposes of that Regulation or which is relevant afforested land.

(4) Where in this regulation alternative rates are given in sterling and ECU the rate which results in the lower payment in sterling shall apply.

### **Provisions with respect to breeding cows**

**4.—**(1) Subject to the following paragraphs of this regulation, the number of breeding cows for which a compensatory allowance may be paid to a person who has made a valid claim for compensatory allowances for breeding cows in respect of any given Scheme year shall be the least of—

- (a) the number of such animals included in that claim;
- (b) the number of such animals which were—

- (i) owned, or
  - (ii) leased under a formal leasing arrangement,
- by him throughout the retention period for the animals concerned applicable to that Scheme year;
- (c) the number of such animals which in the opinion of the appropriate Minister is reasonable, having regard to the number of calves produced by the regular breeding herd of which they form part in the 12 months preceding the date of lodgement of that claim in accordance with paragraph (1) of regulation 8 or, in the case of a regular breeding herd newly established or re-established in that Scheme year, in such shorter period as the appropriate Minister may determine; or
  - (d) the number of breeding cows which, when added to the number of ewes which are the subject of a claim for compensatory allowances made by that person in respect of that Scheme year, is equivalent to 1.4 livestock units per hectare of eligible land which was included in an area aid application made under Article 6 of Council Regulation 3508/92 in the calendar year preceding that Scheme year and was determined by the appropriate Minister to be eligible forage area for the purposes of that Regulation or which is relevant afforested land.
- (2) A compensatory allowance shall not be paid for any breeding cow the use of which for breeding would not, in the opinion of the appropriate Minister, be in accordance with sound husbandry practice.
- (3) Where in any Scheme year a claimant uses unsuitable supplementary feeding methods the appropriate Minister may reduce or withhold the compensatory allowance for breeding cows otherwise payable to him in respect of that Scheme year in accordance with paragraph (4).
- (4) Where the claimant was not penalised under this regulation for using unsuitable supplementary feeding methods in the preceding Scheme year the compensatory allowance for breeding cows otherwise payable to him may be reduced by 10%; where the claimant was penalised under this regulation for using unsuitable supplementary feeding methods in the preceding Scheme year but not in the Scheme year preceding that one the compensatory allowance for breeding cows otherwise payable to him may be reduced by 20%; and where the claimant has been penalised under this regulation for using unsuitable supplementary feeding methods in each of the two preceding Scheme years the compensatory allowance for breeding cows otherwise payable to him may be withheld.
- (5) 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 the date a claimant lodges his claim for a compensatory allowance in respect of a given Scheme year for any breeding cows in that herd and that milk has been sold or used for the manufacture of milk products for sale, a compensatory allowance shall be payable in respect of that Scheme year for the number of breeding cows comprised in the herd on that date, reduced by such number as appears to the appropriate Minister to be the number of breeding cows in the herd required to produce that quantity of milk in that period of 12 months.

### **Provisions with respect to ewes**

5.—(1) Subject to the following paragraphs of this regulation, the number of ewes for which a compensatory allowance may be paid to a person who has made a valid claim for compensatory allowances for ewes in respect of any given Scheme year shall be the least of—

- (a) the number of such animals included in that claim;
- (b) the number of such animals which were—
  - (i) owned, or

- (ii) leased under a formal leasing arrangement,  
by him throughout the retention period for the animals concerned applicable to that Scheme year;
- (c) the number of such animals which in the opinion of the appropriate Minister is reasonable, having regard to the number of lambs produced by the qualified flock of which they form part in the 12 months preceding the date of lodgement of that claim or, in the case of a qualified flock newly established or re-established in that Scheme year, in such shorter period as the appropriate Minister may determine;
- (d) a number calculated at the rate of—
  - (i) six ewes for each hectare of severely disadvantaged land, and
  - (ii) 9 ewes for each hectare of disadvantaged land,

which land was included in an area aid application made under Article 6 of Council Regulation 3508/92 in the calendar year preceding that Scheme year and was determined by the appropriate Minister to be eligible forage area for the purposes of that Regulation or which land is relevant afforested land;

- (e) the number of ewes which, when added to the number of breeding cows which are the subject of a claim for compensatory allowances made by that person in respect of that Scheme year, is equivalent to 1.4 livestock units per hectare of eligible land which was included in an area aid application made under Article 6 of Council Regulation 3508/92 in the calendar year preceding that Scheme year and was determined by the appropriate Minister to be eligible forage area for the purposes of that Regulation or which is relevant afforested land.

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

(3) Where in any Scheme year a claimant uses unsuitable supplementary feeding methods the appropriate Minister may reduce or withhold the compensatory allowance for ewes otherwise payable to him in respect of that Scheme year in accordance with paragraph (4).

(4) Where the claimant was not penalised under this regulation for using unsuitable supplementary feeding methods in the preceding Scheme year the compensatory allowance for ewes otherwise payable to him may be reduced by 10%; where the claimant was penalised under this regulation for using unsuitable supplementary feeding methods in the preceding Scheme year but not in the Scheme year preceding that one the compensatory allowance for ewes otherwise payable to him may be reduced by 20%; and where the claimant has been penalised under this regulation for using unsuitable supplementary feeding methods in each of the two preceding Scheme years the compensatory allowance for ewes otherwise payable to him may be withheld.

### **Replacement animals**

6.—(1) In the case of a claim for a compensatory allowance for breeding cows in respect of a given Scheme year, any of the breeding cows concerned may be replaced within the period specified in the second paragraph of Article 10(4) of Commission Regulation 3887/92 by another breeding cow or by a female bovine animal which has not yet borne a calf but which is in-calf on the day of replacement before the end of the retention period for those breeding cows applicable to that Scheme year, without calling into question the number of breeding cows which have been owned or leased under a formal leasing arrangement by him throughout that retention period.

(2) In the case of a claim for a compensatory allowance for ewes in respect of a given Scheme year, any of the ewes concerned may be replaced by another ewe or by another female sheep which will be at least 1 year old by the end of the retention period for those ewes applicable to that Scheme



year without calling into question the number of ewes which have been owned or leased under a formal leasing arrangement by him throughout that retention period.

(3) In the case where in accordance with paragraph (2) a ewe or another female sheep replaces a ewe which is a member of a specially qualified flock the replacement animal shall be of a hardy breed or hardy cross-breed.

(4) In the case of paragraph (2), the replacement must occur—

(a) within 7 days of the replaced ewe leaving the qualified flock of which it formed part; or

(b) (if sooner) before the end of the retention period for the ewes comprising that qualified flock applicable to the Scheme year concerned.

### **Overgrazing**

7.—(1) Subject to paragraph (3), where in the year preceding the opening date for lodging claims for compensatory allowances for breeding cows in respect of any given Scheme year specified in paragraph (1) of regulation 8 the appropriate Minister forms the opinion that any parcel of land is being overgrazed that Minister may notify the occupier of the maximum number of breeding cows which may be grazed and maintained on that parcel in that Scheme year, which number shall be determined by taking account of the number of other animals likely to be grazed and maintained on the parcel concerned in the Scheme year in question and having regard to such conditions as may be specified in the notification.

(2) Subject to paragraph (3), where in the year preceding the opening date for lodging claims for compensatory allowances for ewes in respect of any given Scheme year specified in paragraph (2) of regulation 8 the appropriate Minister forms the opinion that any parcel of land is being overgrazed that Minister may notify the occupier of the maximum number of ewes which may be grazed and maintained on that parcel in that Scheme year, which number shall be determined by taking account of the number of other animals likely to be grazed and maintained on the parcel concerned in the Scheme year in question and having regard to such conditions as may be specified in the notification.

(3) The appropriate Minister may in the year preceding the opening date for lodging claims for compensatory allowances for breeding cows in respect of any given Scheme year specified in paragraph (1) of regulation 8 or in the year preceding the opening date for lodging claims for compensatory allowances for ewes in respect of a given Scheme year specified in paragraph (2) of regulation 8 issue a notification under paragraph (1) or (2) even where there is no evidence that the parcel of land to which it relates is being overgrazed if he has previously made such a notification in respect of that parcel having formed the opinion that it was being overgrazed.

(4) Where the appropriate Minister has made a notification under paragraph (1) or (2) no compensatory allowance shall be paid in respect of the Scheme year for which it was issued for any breeding cows or as the case may be ewes grazed and maintained in that Scheme year on the land to which it relates in excess of the maximum number of such animals specified in it.

### **Claims for compensatory allowances**

8.—(1) A claim for a compensatory allowance for breeding cows in respect of any Scheme year shall be lodged with the appropriate Minister on or after 1st July but not later than 6th December in the preceding calendar year.

(2) A claim for a compensatory allowance for ewes in respect of any Scheme year shall be lodged with the appropriate Minister—

(a) on or after 4th December in the preceding calendar year; but

(b) not later than 4th February in the Scheme year concerned.

(3) A claim for a compensatory allowance shall be made in such form as the appropriate Minister may reasonably require, and no person shall be entitled to make more than one such claim for breeding cows or as the case may be ewes in respect of any Scheme year, provided that where in respect of a given Scheme year a number of claims for compensatory allowances for breeding cows or as the case may be ewes are made by persons who have in respect of that year made more than one area aid application under Article 6 of Council Regulation 3508/92 but who are regarded as a single farmer within the meaning of Article 1(4) of that Council Regulation the claims concerned shall be deemed to be a single claim made by one person for the purposes of this paragraph.

(4) Where the claimant is a producer group within the meaning of point 2 of Article 1 of Council Regulation 3493/90 the claimant shall in making a claim for a compensatory allowance for ewes under this regulation observe signature formalities equivalent to those imposed by Article 2(1) of Commission Regulation 2385/91 in relation to the application referred to therein.

### **Powers of authorised persons**

9.—(1) An authorised person may at all reasonable hours and on producing, if so required, some duly authenticated document showing his authority, exercise the powers specified in this regulation for the purposes of—

- (a) carrying out any specified control measure;
- (b) ascertaining whether an offence under regulation 14 has been or is being committed; or
- (c) ensuring that compensatory allowances under these Regulations are paid in proper cases only.

(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, occupied by a claimant or used by him for grazing breeding cows or ewes to which a claim for compensatory allowance relates.

(3) An authorised person who has entered any land by virtue of this regulation may—

- (a) inspect and verify the total area of that land, including forage area;
- (b) inspect and count any animals on that land and read the ear-tags or other identification marks of any such animals;
- (c) carry out any other activity which is a specified control measure; and
- (d) inspect that land for the purposes of determining whether or not it has been overgrazed or unsuitable supplementary feeding methods have been used on it.

(4) An authorised person entering any land by virtue of this regulation may take with him such other persons acting under his instructions as he considers necessary.

(5) An authorised person may—

- (a) require a claimant or any employee, servant or agent of a claimant to produce any document or other record in his possession or under his control relating to any animals kept or formerly kept by him (in particular any document or record relating to the animals concerned which the claimant is required to retain by virtue of the 1992 Sheep Regulations, the 1993 Suckler Cow Regulations, the 1995 Order or the 1996 Order), and to supply such additional information in that person's possession or under his control relating to a claim for a compensatory allowance as the authorised person may reasonably request;
- (b) inspect any document or other record referred to in sub-paragraph (a) of this paragraph and, where any such 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 record;
- (c) make such copies of any document or other record referred to in sub-paragraph (a) of this paragraph as he may think fit; and

- (d) seize and retain any document or other record referred to in sub-paragraph (a) of this paragraph which he 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 may be taken away.

### **Assistance to authorised persons**

**10.** A claimant, any employee, servant or agent of a claimant or any person in charge of animals on the land shall give to an authorised person such assistance as the authorised person may reasonably request so as to enable the authorised person to exercise any power conferred by regulation 9 and in particular, in relation to any animal, shall arrange for the collection, penning and securing of such animal, if so requested.

### **Release from undertaking**

**11.** A claimant is by virtue of this regulation released from the undertaking referred to in regulation 3(2)—

- (a) at the moment he first receives a retirement pension;
- (b) if he is prevented from continuing to discharge that undertaking by reason of any material circumstances beyond his control; or
- (c) if he ceases farming and at least 3 hectares of his eligible land, or the eligible land used by him for the grazing of animals, continues to be used for agricultural purposes.

### **Withholding or recovery of compensatory allowance**

**12.—(1)** Where any person fails to comply with the terms of an undertaking given by him under regulation 3(2), from which he has not been released by virtue of regulation 11, the appropriate Minister shall be entitled to withhold or to recover on demand the whole or any part of any compensatory allowance payable or paid to him.

(2) Where a claimant, or an employee, servant or agent of a claimant, intentionally obstructs an authorised person or a person accompanying such authorised person and acting under his instructions from exercising any power conferred by regulation 9, or fails without reasonable excuse to comply with a requirement made by an authorised person under regulation 9 or a request made by an authorised person when carrying out any such power, the appropriate Minister shall be entitled to withhold or to recover on demand from that claimant the whole or any part of any compensatory allowance payable or paid to him.

(3) Where the appropriate Minister has made a notification under paragraph (1) or (2) of regulation 7 and is satisfied that—

- (a) any condition specified in that notification has been breached; or
- (b) more breeding cows or as the case may be ewes than the maximum number specified in the notification have been grazed and maintained on the parcel of land to which it relates in the Scheme year for which it was issued,

he may withhold or recover on demand the whole or any part of any compensatory allowance otherwise payable or as the case may be already paid to the recipient of the notification for the Scheme year to which it relates.

(4) Where at any time during a Scheme year a claimant fails to comply with article 5 of the 1995 Order the appropriate Minister may withhold or recover on demand the whole or any part of a compensatory allowance for breeding cows payable or as the case may be paid to the claimant in respect of that Scheme year.

(5) Where at any time during a Scheme year a claimant fails to comply with—

- (a) article 4 of the 1996 Order; and
- (b) (where he is a sheepmeat producer for the purposes of Council Regulation 3493/90) the provisions of paragraphs (1), (3), (4) and (5) of article 5 of that Order,

the appropriate Minister may withhold or recover on demand the whole or any part of a compensatory allowance for ewes payable or as the case may be paid to the claimant in respect of that Scheme year.

### **Rate of interest**

13. Except where the appropriate Minister recovers from any claimant any compensatory allowance or part of any compensatory allowance paid to the claimant as a result of an error of that Minister, for the purposes of Article 14(1) of Commission Regulation 3887/92 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 for the period specified in that Article.

### **Offences**

14. It shall be an offence for a person—

- (a) intentionally to obstruct an authorised person in the exercise of a power conferred by regulation 9.
- (b) without reasonable excuse, to fail to comply with a requirement made under regulation 9 or a request made under regulation 10; or
- (c) 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 for the purposes of obtaining for himself or any other person the whole or any part of any compensatory allowance.

### **Punishment of offences**

15.—(1) A person guilty of an offence under regulation 14(a) or (b) 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 14(c) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Time limit for prosecutions**

16.—(1) Proceedings for an offence under regulation 14 may, subject to paragraph (2), be commenced within the period of 6 months from the date on which evidence sufficient in the opinion of the prosecutor to warrant proceedings comes to his knowledge.

(2) No such proceedings shall be commenced by virtue of this regulation more than 12 months after the commission of the offence.

(3) For the purpose of this regulation, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

(5) In relation to proceedings in Scotland, subsection (3) of section 136 of the Criminal Procedure (Scotland) Act 1995(22) (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**

17.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate; or
- (b) any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) For the purposes of paragraph (1), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of that body corporate.

(3) Where an offence under these Regulations is committed in Scotland by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

### **Revocations and saving**

18. The 1994 Regulations, the Hill Livestock (Compensatory Allowances) (Amendment) Regulations 1995(23), the Hill Livestock (Compensatory Allowances) (Amendment) (No. 2) Regulations 1995(24), the Hill Livestock (Compensatory Allowances) (Amendment) (No. 3) Regulations 1995(25) and the Hill Livestock (Compensatory Allowances) (Amendment) Regulations 1996(26) are hereby revoked, except in relation to any compensatory allowance paid in respect of the 1995 or 1996 Scheme years.

5th June 1996

*Tim Boswell*  
Parliamentary Secretary, Ministry of Agriculture,  
Fisheries and Food

Scottish Office  
10th June 1996

*Lindsay*  
Parliamentary Under Secretary of State,

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(23) S.I. 1995/100.  
(24) S.I. 1995/1481.  
(25) S.I. 1995/2778.  
(26) S.I. 1996/27.

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## EXPLANATORY NOTE

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

These Regulations consolidate (with changes) the Hill Livestock (Compensatory Allowances) Regulations 1994, as amended. The Regulations extend to Great Britain. They comply with Council Directive [75/268/EEC](#) on mountain and hill farming and farming in less-favoured areas (OJ No. L128, 19.5.75, p. 1), as last amended by Council Regulation [\(EEC\) No. 797/85](#) (OJ No. L93, 30.3.85, p. 43), and with Articles 17 to 19 of Council Regulation [\(EEC\) No. 2328/91](#) on improving the efficiency of agricultural structures (OJ No. L218, 6.8.91, p. 1), as last amended by Commission Regulation [\(EEC\) No. 2387/95](#) (OJ No. L244, 12.10.95 p. 50). The Regulations also make provision for the administration and enforcement of the integrated administration and control system established by Council Regulation [\(EEC\) No. 3508/92](#) insofar as that system applies to compensatory allowances for breeding cows and ewes.

The Regulations provide for the payment of a specified annual compensatory allowance for certain breeding cows and ewes (*regulation 3*).

They lay down detailed provisions relating to the payment of allowances for breeding cows and ewes (*regulations 4 and 5*).

Provision is made enabling animals which are subject to a claim to be replaced (*regulation 6*).

Penalties for overgrazing are specified (*regulation 7*).

Regulation 8 makes provision for the making of claims for compensatory allowances.

Regulations 9 and 10 provide for enforcement powers.

Regulation 11 makes provision relating to retirement pensioners.

Regulation 12 provides for the withholding and recovery of compensatory allowances in the circumstances stated therein.

Regulation 13 determines the applicable rate of interest for allowances wrongly paid under these Regulations but recovered under Commission Regulation [\(EEC\) No. 3887/92](#).

Regulations 14 to 17 relate to prosecutions.

The principal changes effected by these Regulations are—

- (a) the definition of “ewe” in regulation 2(1) now provides for the animal concerned to be at least 1 year old on 1st January in the Scheme year in question;
- (b) the definitions of “qualified flock” and “regular breeding herd” in regulation 2(1) now require the animals concerned usually to be kept on a production unit which includes disadvantaged land or severely disadvantaged land;
- (c) entitlement to an allowance (as specified in regulation 3(1)) is now based on the number of ewes or as the case may be breeding cows owned or leased by the producer throughout the retention period for those animals, as defined in regulation 2(2);
- (d) there is now included a provision, regulation 6, allowing animals to be replaced during the retention period;
- (e) regulation 12(4) and (5) permits allowances to be withheld or as the case may be recovered where a claimant fails to comply with the record-keeping provisions of specified animal health legislation, made under the Animal Health Act 1981 ([1981 c. 22](#)). This is in conformity with Article 9 of Council Directive 92/102/EEC (OJ No. L355, 5.12.92, p.32).

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