

Statutory Instrument 1999 No. 3315

The Hill Livestock (Compensatory Allowances) (Enforcement) Regulations 1999

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STATUTORY INSTRUMENTS

1999 No. 3315

AGRICULTURE

The Hill Livestock (Compensatory Allowances) (Enforcement) Regulations 1999

<i>Made</i>	<i>15th December 1999</i>
<i>Laid before Parliament</i>	<i>15th December 1999</i>
<i>Coming into force</i>	<i>16th December 1999</i>

The Minister of Agriculture, Fisheries and Food, being a Minister designated^[1] for the purposes of section 2(2) of the European Communities Act 1972^[2] in relation to the common agricultural policy of the European Community, acting in exercise of the powers conferred upon him by the said section 2(2) and by section 57(1) of the Scotland Act 1998^[3], and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Title and commencement

1. These Regulations may be cited as the Hill Livestock (Compensatory Allowances) (Enforcement) Regulations 1999, and shall come into force on 16th December 1999.

Interpretation

2. - (1) In these Regulations, unless the context otherwise requires-

"area aid application" has the same meaning as in Article 6 of Council Regulation 3508/92;

"authorised person" means a person who is authorised by the competent authority, either generally or specially, to act in matters arising under these Regulations, whether or not he is an officer of that competent authority;

"breeding cow" means a female bovine animal comprised in a regular breeding herd which is not maintained primarily for the production of milk, which-

(a) has borne a calf on or before the day on which a claim for a compensatory allowance for it is received by a competent authority or, in the case of a claim received before these Regulations come into force, had borne a calf on or before the day on which a claim was so received, and is, or was, capable of lactation on that day; or

(b) has not yet borne a calf but-

(i) has been added to the herd to replace, for the purposes of an application for the premium for maintaining suckler cows made in 1999 pursuant to regulation 3 of the 1993 Suckler Cow Regulations, an animal included in that application, and

(ii) was in calf when it was so added to the herd, and

(iii) is otherwise eligible for the said premium;

"the 1998 Cattle Regulations" means the Cattle Identification Regulations 1998[4];

"claimant" means a person who has made a claim for a compensatory allowance;

"Commission Regulation 1750/1999" means Commission Regulation (EC) No. 1750/1999 laying down detailed rules for the application of Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF)[5];

"Commission Regulation 2603/1999" means Commission Regulation (EC) No. 2603/1999 laying down rules for the transition to the rural development support provided for by Council Regulation (EC) No. 1257/1999[6];

"compensatory allowance" means a compensatory allowance payable in respect of the Scheme Year on the basis of livestock numbers for breeding cows or ewes in accordance with Article 7 of Commission Regulation 2603/1999;

"competent authority" means-

(a) in relation to England, the Minister of Agriculture, Fisheries and Food;

(b) in relation to Northern Ireland, the Department of Agriculture and Rural Development;

(c) in relation to Scotland, the Scottish Ministers;

(d) in relation to Wales, the National Assembly for Wales;

"Council Regulation 3508/92" means Council Regulation (EEC) No. 3508/92 establishing an integrated administration and control system for certain Community aid schemes[7];

"Council Regulation 1257/1999" means Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations[8];

"ewe" means a female sheep which is at least one year old on 1st January 2000 and is comprised in a qualified flock;

"forage area" means land used to graze or feed livestock which was included as such in a valid area aid application submitted in 1999;

"holding" means all the production units managed by a claimant situated within the United Kingdom;

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

"the 1996 Order" means the Sheep and Goats (Records, Identification and Movement) Order 1996[9];

"overgrazed" means grazed with livestock in such numbers as adversely to affect the growth, quality or species composition of vegetation (other than vegetation normally grazed to destruction) to a significant degree;

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

"regular breeding herd" means a herd of cattle which is usually kept on a production unit which includes land in a less-favoured area referred to in Article 14(1) of Council Regulation 1257/1999 and which is, in the opinion of the competent authority-

(a) maintained primarily for the purpose of breeding and rearing calves; and

(b) maintained and managed in accordance with sound husbandry practice;

"Scheme Year" means the calendar year 2000;

"the 1992 Sheep Regulations" means the Sheep Annual Premium Regulations 1992[10];

"specified control measure" means any check which a member State is required to carry out under Article 47 of Commission Regulation 1750/1999;

"the 1993 Suckler Cow Regulations" means the Suckler Cow Premium Regulations 1993[11];

"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;

"usual good farming practices" means the farming practices described in Article 14(2) of Council Regulation 1257/1999 and defined in Article 28 of Commission Regulation 1750/1999.

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

(3) Any reference in these Regulations to a numbered regulation (with no corresponding reference to a specific instrument) is a reference to the regulation so numbered in these Regulations.

Application

3. These Regulations shall apply where the holding which includes the claimant's forage area is situated-

- (a) entirely in England,**
- (b) entirely in Wales,**
- (c) partly in England and partly in Wales,**
- (d) partly in Northern Ireland and partly in England, Scotland or Wales, or**
- (e) partly in Scotland and partly in England, Northern Ireland or Wales;**

but not where the holding which includes the claimant's forage area is situated-

- (f) entirely in Northern Ireland, or**
- (g) entirely in Scotland.**

Powers of authorised persons

4. - (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 6 has been or is being committed; or**
- (c) ensuring that compensatory allowances 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 reasonably believes to be, occupied by a claimant or used by him for grazing breeding cows or ewes for which a claim for compensatory allowances has been made.

(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 usual good farming practices have been applied on it, whether it has been overgrazed or whether 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 1996 Order or the 1998 Cattle Regulations), 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) 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) as he may think fit; and

(d) seize and retain any document or other record referred to in sub-paragraph (a) which he has reason to believe may be required as evidence in proceedings under these Regulations, or in proceedings for recovery of any compensatory allowance unduly paid 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

5. 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 4 and in particular, in relation to any animal, shall arrange for the collection, penning and securing of such animal, if so requested.

Offences

6. It shall be an offence for a person-

(a) intentionally to obstruct an authorised person in the exercise of a power conferred by regulation 4;

(b) without reasonable excuse, to fail to comply with a requirement made under regulation 4 or a request made under regulation 5; 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.

Penalties

7. - (1) A person guilty of an offence under regulation 6(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 6(c) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Time limit for prosecutions

8. - (1) Proceedings for an offence under regulation 6 may, subject to paragraph (2), be commenced within the period of six 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 twelve 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, section 136(3) of the Criminal Procedure (Scotland) Act 1995^[12] (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

9. - (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 shall be liable to be proceeded against and punished accordingly.

Joyce Quin

Minister of State, Ministry of Agriculture, Fisheries and Food

15th December 1999

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 16th December 1999, provide for enforcement of the rules of the United Kingdom's Hill Livestock Compensatory Allowances Schemes in 2000 in England and Wales, and in Northern Ireland and Scotland where a farm includes land there as well as land in another of the United Kingdom's four jurisdictions. They re-enact, with minor and drafting amendments, the enforcement provisions of the Hill Livestock (Compensatory Allowances) Regulations 1996, as amended. The rules of the Schemes for England and Wales, Scotland and Northern Ireland are laid down in separate regulations.

The Regulations comply with Commission Regulation (EC) No. 1750/1999 laying down detailed rules for the application of Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF). Compensatory allowances are paid in compliance with Commission Regulation (EC) No. 2603/1999 laying down rules for the transition to the rural development support provided for by Council Regulation (EC) No. 1257/1999.

Regulations 4 and 5 contain powers of entry, inspection and collection of evidence and regulations 6 to 9 deal with offences and penalties.

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

Notes:

[1] S.I. 1972/1811. The power of the Minister of Agriculture, Fisheries and Food to make, as a Minister designated in relation to the common agricultural policy of the European Community, regulations which extend to Wales is confirmed by article 3(4) of the European Communities (Designation) (No. 3) Order 1999 (S.I. 1999/2788).[back](#)

[2] 1972 c. 68.[back](#)

[3] 1998 c. 46.[back](#)

[4] S.I. 1998/871, amended by S.I. 1998/1796, 2969, 1999/1339.[back](#)

[5] OJ No. L214, 13.8.1999, p.31.[back](#)

[6] OJ No. L316, 10.12.1999, p.26.[back](#)

[7] OJ No. L355, 5.12.92, p.1, as last amended by Council Regulation (EC) No. 1036/1999 (OJ No. L127, 21.5.1999, p.4).[back](#)

[8] OJ No. 160, 26.6.1999, p.80.[back](#)

[9] S.I. 1996/28.[back](#)

[10] S.I. 1992/2677, amended by S.I. 1994/2741, 1995/2779, 1996/49, 1997/2500.[back](#)

[11] S.I. 1993/1441, amended by S.I. 1994/1528, 1995/15, 1446, 1996/1488, 1997/249.back

[12] 1995 c. 46.back

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