

Scottish Statutory Instrument 2002 No. 278

The Extensification Payment (Scotland) Regulations 2002

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SCOTTISH STATUTORY INSTRUMENTS

2002 No. 278

AGRICULTURE

The Extensification Payment (Scotland) Regulations 2002

<i>Made</i>	<i>7th June 2002</i>
<i>Laid before the Scottish Parliament</i>	<i>7th June 2002</i>
<i>Coming into force</i>	<i>28th June 2002</i>

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

Citation, commencement and extent

1. - (1) These Regulations may be cited as the Extensification Payment (Scotland) Regulations 2002 and shall come into force on 28th June 2002.

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

Interpretation

2. - (1) In these Regulations-

"authorised person" means a person who is authorised by the Scottish Ministers to act in matters arising under these Regulations, whether or not that person is an officer of the Scottish Ministers;

"beef special premium" means the special premium for male bovine animals provided for in Article 4 of Council Regulation 1254/1999;

"bovine animal" means an animal of the domestic bovine species;

"cattle passport" means, in relation to a bovine animal-

(a) to which the Cattle Passports Order 1996[2] applied, a cattle passport as defined in article 2(2) of that Order;

(b) to which Article 6(1) of Council Regulation 820/1997 applied, a valid cattle passport issued pursuant to that Article; and

(c) to which Article 6(1) of Regulation 1760/2000 applies, a valid cattle passport issued pursuant to that Article;

"census date" means the date determined, for the purposes of the first sub-paragraph of Article 32(3) of Commission Regulation 2342/1999, by the Secretary of State in accordance with the Extensification Payment Regulations 2001[3];

"census declaration" means a declaration of the number of bovine animals of six months of age or more on a holding of a claimant on a census date, made by that claimant pursuant to the first indent of the third sub-paragraph of Article 32(3) of Commission Regulation 2342/1999;

"claim" means an indication, given in accordance with Article 32(1) of Commission Regulation 2342/1999, that a producer wishes to participate in the extensification payment scheme and "claimed", in relation to an extensification payment, shall be interpreted accordingly;

"claimant" means a producer who submits a claim;

"claimant's document" means any of the following documents or records, whether in writing or kept by means of a computer:-

(a) any cattle passport or other approved identification;

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

(c) any register kept in compliance with Article 7(1) and (4) of Regulation 1760/2000;

(d) any record made under article 5 of the Bovine Animals (Records, Identification and Movement) Order 1995[4];

(e) any record made under article 9 of the Bovine Animals (Identification, Marking and Breeding Records) Order 1990[5]; and

(f) any book, register (other than a register referred to in sub-paragraph (c) of

this definition), bill, invoice, account, receipt, certificate, voucher, correspondence or other document or record relating to a bovine animal;

"Commission Regulation 3887/1992" means Commission Regulation (EC) No. 3887/1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes[6] as amended by Commission Regulation (EC) No. 229/1995[7], Commission Regulation (EC) No. 1648/1995[8], Commission Regulation (EC) No. 2015/1995[9], Commission Regulation 1678/1998[10], Commission Regulation (EC) No. 2801/1999[11], Commission Regulation (EC) No. 2721/2000[12] and Commission Regulation (EC) No. 882/2007[13];

"Commission Regulation 2419/2001" means Commission Regulation (EC) No. 2419/2001 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes[14] as amended by Commission Regulation (EC) No. 2550/2001[15];

"Commission Regulation 2342/1999" means Commission Regulation (EC) No. 2342/1999 laying down detailed rules for the application of Council Regulation (EC) No. 1254/1999 on the common organisation of the market in beef and veal as regards premium schemes[16] as amended by Commission Regulation (EC) No. 1042/2000[17], Commission Regulation (EC) No. 1900/2000[18], Commission Regulation (EC) No. 2733/2000[19] and Commission Regulation (EC) No. 192/2001[20], Commission Regulation (EC) No. 1458/2001[21] and Commission Regulation (EC) No. 2088/2001[22];

"the Community rules" means the rules concerning the extensification payment laid down in Articles 12, 13, 21 and 23 of Council Regulation 1254/1999 and Chapter IV of Commission Regulation 2342/1999;

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

"Council Regulation 1254/1999" means Council Regulation (EC) No. 1254/1999 on the common organisation of the market in beef and veal[24] as amended by Council Regulation (EC) No. 2730/1999[25], Council Regulation (EC) No 1455/2001[26] and Council Regulation (EC) No 1512/2001[27];

"extensification payment" means the extensification payment granted, for each beef special premium and suckler cow premium granted, to producers who comply with certain stocking density requirements, which is provided for in Article 13 of Council Regulation 1254/1999;

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

"the IACS Regulations" means the Integrated Administration and Control System Regulations 1993[28];

"officer" means a director, manager, secretary or other similar officer of a claimant which is a body corporate, or any person who purports to act in any such capacity;

"other approved identification" means approved identification required by article 4(1) of the Bovine Animals (Identification, Marking and Breeding Records) Order 1990;

"producer" has the same meaning as in Chapter 1 of Title I of Council Regulation 1254/1999;

"Regulation 1760/2000" means Regulation (EC) No. 1760/2000 of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and requiring the labelling of beef and beef products and repealing Council Regulation (EC) No. 820/1997[29] as amended by Commission Regulation (EC) No. 2258/2000 [30];

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

"the simplified scheme" means the system of checking compliance with the stocking density requirements laid down in Article 13(2) of Council Regulation 1254/1999 on the basis of a claimant's declaration and undertaking, which is provided for in Article 32(4) of Commission Regulation 2342/1999;

"specified control measure" means any check which a member State is required to carry out under Articles 15 to 29 of Commission Regulation 2419/2001;

"the standard scheme" means the system of checking compliance with the stocking density requirements laid down in Article 13(2) of Council Regulation 1254/1999 by counting bovine animals on census dates, which is provided for in Article 32(3) of Commission Regulation 2342/1999;

"suckler cow premium" means the premium for maintaining suckler cows provided for in Articles 6 to 10 of Council Regulation 1254/1999.

(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 accompanying reference to a specific instrument) is a reference to the regulation so numbered in these Regulations.

Application

3. These Regulations shall apply to claimants, and to the holdings of such claimants, to the extent to which the Scottish Ministers are the relevant competent authority in relation to the holding of that claimant for the purposes of the IACS Regulations.

Choice of scheme

4. A claimant may, when making a claim, choose for the calendar year in respect of which the claim is made, the simplified scheme, instead of the standard scheme.

Submission of census declarations

5. - (1) No extensification payment shall be granted in respect of a calendar year to a claimant who has chosen the standard scheme for that year, unless the claimant has submitted to the Scottish Ministers a census declaration for every census date in that year.

(2) Subject to paragraph (3) below, where a claimant has chosen the standard scheme for a calendar year, that claimant shall submit to the Scottish Ministers in respect of that year, each census declaration within one month of receipt of the census declaration form from the Scottish Ministers.

(3) Subject to paragraph (4) below, in respect of the final declaration for a calendar year, that declaration shall be submitted to the Scottish Ministers within the period of two months from the end of that year.

(4) In respect of the final declaration to be made for the calendar year 2001, the declaration shall be submitted by 30th June 2002.

Supporting information

6. - (1) A claimant shall, at the request of the Scottish Ministers, supply to them such information and such documents as they may reasonably require for the purpose of determining whether the claimant qualifies for an extensification payment.

(2) Where the Scottish Ministers require such information or documents, the claimant shall supply it or them within such period as they may reasonably determine.

Pasture land

7. For the purposes of Article 13(3)(c) of Council Regulation 1254/1999 (which requires that a claimant's forage area consist of at least fifty per cent of pasture land), pasture land shall mean grassland, including rough grazing, which, following the local farming practices, is recognised as being destined for grazing bovine animals or sheep or both.

Withholding and recovery of extensification payments

8. The Scottish Ministers may withhold, or recover on demand as a debt, the whole or any part of any extensification payment claimed from or granted by them in any of the following circumstances:-

(a) where the grant of an extensification payment to the claimant in question would not, or does not, comply with the Community rules;

(b) where the claimant in question has complied with a stocking density requirement laid down in Article 13(2) of Council Regulation 1254/1999, only by removing bovine animals from the holding of the claimant, otherwise than in accordance with normal husbandry practice;

(c) where, pursuant to regulation 15(5) of the Beef Special Premium (Scotland) Regulations 2001[31] or regulation 5(5) of the Suckler Cow Premium (Scotland) Regulations 2001[32] (which prescribe penalties for overgrazing land), the Scottish Ministers withhold or recover from the claimant in question any beef special premium or suckler cow premium;

(d) where, pursuant to regulation 16 of the Beef Special Premium (Scotland) Regulations 2001 or regulation 6(1) of the Suckler Cow Premium (Scotland) Regulations 2001 (which prescribe penalties for using unsuitable supplementary feeding methods), the Scottish Ministers reduce or withhold the amount of beef special premium or suckler cow premium otherwise payable to the claimant in question;

(e) where the claimant in question, or an officer, employee or agent of that claimant, intentionally obstructs an authorised person, or a person accompanying an authorised person and acting under the instructions of that person, from exercising any power conferred by regulations 11 or 12, or fails without reasonable excuse to comply with a requirement made by an authorised person under regulation 12, or with a request made by an authorised person under regulation 13;

(f) where the claimant in question has failed to supply the information or documents required by the Scottish Ministers pursuant to regulation 6, or has failed to supply it or them within the required period;

(g) where the claimant in question fails, in the reasonable opinion of the Scottish Ministers, to keep any claimant's document in a form which is accurate and up

to date; and

(h) where the claimant in question, when requested by an authorised person requiring information pursuant to regulation 12(a), is unable to demonstrate that the number of bovine animals of six months of age or more on the holding of that claimant can be ascertained on any day of the calendar year for which an extensification payment has been or will be granted.

Rate of interest

9. For the purpose of, and in accordance with, Article 14(1) of Commission Regulation 3887/92 and Article 49 of Commission Regulation 2419/2001, interest shall be charged at the rate of one per cent above the sterling three months London interbank offered rate on a day-to-day basis.

Exercise of powers by authorised persons

10. An authorised person may at all reasonable hours and on producing, if so required, some duly authenticated document showing the authority of that person, exercise the powers conferred by regulations 11 and 12 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 an extensification payment has been or will be granted only in accordance with the Community rules.**

Powers of entry and inspection

11. - (1) An authorised person may enter any land, other than land used only as a dwelling, which is, or which is reasonably believed by that person to be, occupied by a claimant or used by the claimant for keeping bovine animals.

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

- (a) inspect and verify the area of the land or any part thereof;**
- (b) inspect and count any bovine animals on the land and read their eartags or other identification marks;**
- (c) inspect and count any sheep and goats on the land; and**
- (d) carry out any other activity which is a specified control measure.**

(3) An authorised person entering land by virtue of this regulation may be accompanied by such other persons acting under the instructions of that authorised person as is considered necessary.

Powers in relation to documents

12. An authorised person may-

- (a) require a claimant or any officer, employee or agent of a claimant to produce any claimant's document in the possession or under the control of such person and to supply such additional information in that person's possession or under**

the control of that person relating to a claim;

(b) examine any claimant's document referred to in sub-paragraph (a) above and, where it 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 claimant's document;

(c) make such copies of any claimant's document referred to in sub-paragraph (a) above as the authorised person may think fit; and

(d) seize and retain any claimant's document referred to in sub-paragraph (a) above which the authorised person has reason to believe may be required as evidence in proceedings under these Regulations and, where any such claimant's document 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

13. A claimant, any officer, employee or agent of a claimant and any person in charge of animals on land entered pursuant to regulation 11 shall render an authorised person such assistance as may be reasonably requested so as to enable that person to exercise any power conferred by regulation 11 or 12 and, in particular, in relation to any bovine animal, sheep or goat, shall arrange for the penning and securing of such animal if so requested.

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 11 or 12;

(b) without reasonable excuse, to fail to comply with a requirement made under regulation 12 or a request made under regulation 13;

(c) knowingly or recklessly to submit a census declaration which is false or misleading in a material particular; 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 for the purpose of obtaining for that or any other person the grant of an extensification payment.

Penalties and proceedings

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) or (d) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Proceedings for an offence under these Regulations may be commenced within the period of twelve months from the date on which the offence was committed.

(4) Section 136(3) of the Criminal Procedure (Scotland) Act 1995[33] (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

16. - (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) above 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.

ROSS FINNIE

A member of the Scottish Executive

St Andrew's House, Edinburgh

7th June 2002

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations lay down, in relation to holdings in respect of which the Scottish Ministers are the competent authority for IACS purposes, implementing measures for the extensification payment scheme introduced by Article 13 of Council Regulation (EC) No. 1254/1999 on the common organisation of the market in beef and veal (O.J. No. L 160, 26.6.1999, p. 21) for beef producers who comply with certain stocking density requirements.

The rules relating to administration provide for the two Community methods of checking stocking density (regulations 4 and 5), require producers to supply information in support of their claims (regulation 6), define "pasture land" for the purposes of the scheme (regulation 7), provide for withholding or recovery of extensification payments where there is a breach of the rules of the scheme (regulation 8) and provide for the relevant rate of interest on payments due (regulation 9).

The enforcement provisions confer powers of entry and inspection on and permit collection of evidence by authorised persons (regulations 10 to 13). These include the powers required under Articles 15 to 29 of Commission Regulation (EC) No. 2419/2001 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes (O.J. No. L327, 12.12.01, p. 11). Regulations 14 to 16 deal with offences and penalties.

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

Notes:

[1] 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3). The functions conferred on a Minister of the Crown by section 2(2) were transferred, so far as within devolved competence, to the Scottish Ministers by section 53 of the Scotland Act 1998.back

[2] S.I. 1996/1686, revoked by S.I. 1998/871.back

[3] S.I. 2001/ 864. The functions of the Minister of Agriculture, Fisheries and Food were transferred to the Secretary of State by virtue of article 2(2) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).back

[4] S.I. 1995/12, partially revoked by S.I. 1998/871.back

[5] S.I. 1990/1867, revoked by S.I. 1995/12.back

[6] O.J. No. L 391, 31.12.1992, p.36.back

[7] O.J. No. L 27, 4.2.1995, p.3.back

[8] O.J. No. L 156, 7.7.1995, p.27.back

[9] O.J. No. L 197, 22.8.1995, p.2.back

[10] O.J. No. L 212, 30.7.1998, p.23.back

[11] O.J. No. L 340, 31.12.1999, p.29.back

[12] O.J. No. L 314, 14.12.2000, p.8.back

[13] O.J. No. L 123, 4.5.2001, p.20.back

[14] O.J. No. L 327, 12.12.01, p. 11.back

[15] O.J. No. L 341, 22.12.2001, p.105.back

[16] O.J. No. L 281, 4.11.1999, p. 30.back

[17] O.J. No. L 118, 19.5.2000, p. 4.back

[18] O.J. No. L 228, 8.9. 2000, p. 25.back

[19] O.J. No. L 316, 15.12.2000, p. 44.back

[20] O.J. No. L 29, 31.1.2001, p. 27.back

[21] O.J. No. L194, 18.07.01, p.4.back

[22] O.J. No. L 282, 26.10.01, p. 39.back

[23] O.J. No. L 117, 7.5.1997, p. 1, repealed by Regulation (EC) No. 1760/2000 of the European Parliament and of the Council (O.J. No. L 204, 11.8.2000, p. 1).back

[24] O.J. No. L 160, 26.6.1999, p. 21.back

[25] O.J. No. L 328, 22.12.99, p. 37.back

[26] O.J. No. L 198, 21.07.01, p. 58.back

[27] O.J. No. L 201, 26.07.01, p.1.back

[28] S.I. 1993/1317, amended by S.I. 1994/1134, 1997/1148, 1999/1820 and 2000/2573.back

[29] O.J. No. L 204, 11.8.2000, p. 1.back

[30] O.J. No. L 258, 12.10.00, p.26.back

[31] S.S.I. 2001/445.back

[32] S.S. I. 2001/225.back

[33] 1995 c.46.back

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