
STATUTORY INSTRUMENTS

1995 No. 1159

AGRICULTURE

**The Moorland (Livestock Extensification)
(Wales) Regulations 1995**

<i>Made</i>	- - - -	<i>24th April 1995</i>
<i>Laid before Parliament</i>		<i>1st May 1995</i>
<i>Coming into force</i>	- -	<i>22nd May 1995</i>

The Secretary of State, 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, in exercise of the powers conferred on him by the said section 2(2) and of all other powers enabling him in that behalf, hereby makes the following Regulations—

Citation, extent and commencement

1. These Regulations may be cited as the Moorland (Livestock Extensification) (Wales) Regulations 1995, shall extend to Wales and shall come into force on 22nd May 1995.

Interpretation

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

“application” means an application under regulation 4 and “applicant” shall be construed accordingly;

“authorised person” means a person (whether or not an officer of the Secretary of State) authorised by the Secretary of State in accordance with regulation 9;

“beneficiary” means—

- (a) a person whose application has been accepted; or
- (b) a person who occupies a holding or part of a holding following a change of occupation of that holding or part and who has given an undertaking to comply with extensification obligations relating to that holding or part assumed by the previous occupier;

“compensatory allowance” means the annual compensatory allowance paid under the Hill Livestock (Compensatory Allowances) Regulations 1984⁽³⁾, the Hill Livestock

(1) S.I. 1972/1811.

(2) 1972 c. 68.

(3) 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 by S.I. 1992/269.

(Compensatory Allowances) Regulations 1993(4) or the Hill Livestock (Compensatory Allowances) Regulations 1994(5) in respect of sheep;

“eligible moorland” means heather moorland or grass moorland which—

- (a) is included in the area coloured brown on any of the maps in the volume of maps marked “Moorland Map of Wales 1992” and deposited at the offices of the Welsh Office Agriculture Department at Cathays Park, Cardiff, South Glamorgan CF1 3NQ,
- (b) is not situated in an environmentally sensitive area designated under section 18 of the Agriculture Act 1986(6),
- (c) is not subject to an experimental scheme made by the Countryside Council for Wales under section 4(1) of the Countryside Act 1968(7), and
- (d) is not the subject of an agreement entered into under section 15 of the Countryside Act 1968 or under section 16 of the National Parks and Access to the Countryside Act 1949(8) which contains a requirement to reduce the stocking density of ewes and relevant livestock;

“eligible person” means a person who on the date of his application—

- (a) is the occupier of a production unit containing at least 10 hectares of eligible moorland and has occupied that production unit for a period of at least 12 months, and
- (b) either has received compensatory allowances for his flock in respect of 1994 and any subsequent year in respect of which such allowances may be paid or has entered into an agreement with the Secretary of State in accordance with the Sheep Pilot Extensification Scheme;

“ewe” means a female sheep which was at least one year old on the last preceding qualifying date;

“extensification obligations” means the obligations assumed by a beneficiary by virtue of the undertakings referred to in regulation 3 or 7;

“extensification period” means the period of five consecutive years commencing on the first day of the first winter after the acceptance by the Secretary of State of an application;

“grass moorland” means moorland comprised in a moorland grazing unit on which at least 75 per cent of the vegetation is composed of one or more of the following:

bent (*Agrostis spp*), fescue (*Festuca spp*), wavy hair-grass (*Deschampsia flexuosa*), purple moor-grass (*Molinia caerulea*), mat-grass (*Nardus stricta*), cotton grass (*Eriophorum spp*), deer-grass (*Trichophorum cespitosum*), heath rush (*Juncus squarrosus*), or bracken (*Pteridium aquilinum*);

“heather” means vegetation consisting of *Calluna vulgaris*, *Erica tetralix*, *Erica cinerea* or *Vaccinium myrtillus*;

“heather moorland” means moorland comprised in a moorland grazing unit on which heather covers more than 25 per cent of the area of the land;

“holding” means all the production units farmed by an applicant or beneficiary;

“landlord” means, in relation to any land occupied by a tenant, any person who is entitled for the time being to receive the rents or profits of the land from the tenant so occupying the land;

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

(5) S.I. 1994/2740.

(6) 1986 c. 49; section 18 was amended by S.I. 1994/249.

(7) 1968 c. 41; section 4(1) was substituted by section 40 of the Wildlife and Countryside Act 1981(c. 69) and was later amended by paragraph 2 of Schedule 8 to the Environmental Protection Act 1990 (c. 43); section 15 was amended by the Nature Conservancy Council Act 1973 (c. 54) and by paragraph 4 of Schedule 9 to the Environmental Protection Act 1990.

(8) 1949 c. 97; section 16 was amended by the Nature Conservancy Council Act 1973 and paragraph 1(2) of Schedule 9 to the Environmental Protection Act 1990 provides a new meaning of “Nature Conservancy Council”.

“livestock unit” means—

- (a) 6.66 ewes, or
- (b) 6.66 goats, or
- (c) 1 bovine animal more than two years old, or
- (d) 1.66 bovine animals from six months old to two years old inclusive, or
- (e) 1 horse or pony more than six months old, or
- (f) 4.35 farmed deer;

“moorland” means land with predominantly semi-natural upland vegetation, or comprising predominantly rock outcrops and semi-natural upland vegetation, used primarily for rough grazing;

“moorland grazing unit” means an area of moorland on which stock management and numbers can be controlled by existing boundaries or by shepherding;

“occupier” includes a person who has a right to use eligible moorland for the purpose of grazing ewes and “occupied” shall be construed accordingly;

“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 to destruction) on that land to a significant degree;

“participating production unit” means a production unit—

- (a) which contains at least 10 hectares of eligible moorland,
- (b) which on the date of an application has been occupied by the applicant for a period of at least 12 months, and
- (c) in respect of which a written undertaking is given to comply with the obligations described in regulation 3(a) to (e);

“production unit” means land farmed in Wales by an applicant or beneficiary as a single unit, having regard to supplies of machinery, livestock, feeding-stuffs and manpower;

“qualifying date” means—

- (a) 20th February where an applicant or a beneficiary has not submitted a claim for compensatory allowances in respect of that year or has not submitted such a claim on or before the date which is the qualifying day for the purposes of those allowances, and
- (b) in all other cases, the date which is the qualifying day for the purposes of those allowances;

“reference flock” means—

- (a) where the applicant has entered into an agreement with the Secretary of State in accordance with the Sheep Pilot Extensification Scheme, the number of ewes for which the applicant received compensatory allowances for the year immediately before the year in which the applicant entered into that agreement, and
- (b) in other cases the smallest of the following, namely—
 - (i) where an applicant or beneficiary received compensatory allowances in respect of 1994, the number of ewes for which he received the allowances,
 - (ii) where an applicant or beneficiary received compensatory allowances in respect of the year prior to submission of his application, the number of ewes for which he received the allowances, and
 - (iii) where the Secretary of State has notified the applicant of a number of ewes in accordance with paragraph (2), the number of ewes so notified;

“relevant livestock” means cattle, goats, horses, ponies and farmed deer;

“Sheep Pilot Extensification Scheme” means the Sheep Scheme referred to in the booklet “Beef and Sheep Pilot Extensification Schemes” reference EXT 1 issued by the Ministry of Agriculture, Fisheries and Food, the Department of Agriculture and Fisheries for Scotland, the Welsh Office Agriculture Department and the Department of Agriculture for Northern Ireland⁽⁹⁾;

“specified stocking density” means—

- (a) in respect of heather moorland 0.15 livestock units per hectare in winter and 0.23 livestock units per hectare in summer;
- (b) in respect of grass moorland 0.23 livestock units per hectare in winter and 0.38 livestock units per hectare in summer;

“summer” means the period in any year from 16th March to 14th October inclusive;

“tenant” includes sub-tenant and any person deriving title from the original tenant or sub-tenant;

“unsuitable supplementary feeding methods” means feeding methods which include 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;

“winter” means the period from 15th October in any year to 15th March in the next year inclusive.

(2) Where the Secretary of State forms the opinion that (taking account of the need to avoid overgrazing) there is a maximum number of ewes which should be grazed on the holding of an applicant, the Secretary of State may notify the applicant of that number.

(3) Any reference in these Regulations to the date of an application is a reference to the date of receipt of that application by the Secretary of State.

(4) Any reference in these Regulations—

- (a) to a numbered regulation or “the Schedule” shall be construed as a reference to the regulation so numbered in these Regulations or the Schedule to these Regulations;
- (b) to a numbered paragraph is to the paragraph so numbered in the regulation to which the reference occurs.

Aid for moorland extensification

3. Subject to the provisions of these Regulations, the Secretary of State may make payments of aid to any eligible person who undertakes for the duration of the extensification period—

- (a) to ensure that the stocking density of ewes and relevant livestock on eligible moorland on each participating production unit does not exceed the specified stocking density;
- (b) to use for the purposes of grazing or forage—
 - (i) during the summer, on each participating production unit, an area of land at least equal in size to the largest area used by him for grazing or forage on that unit during the last summer which ended before the date of his application, and
 - (ii) during the winter, on each participating production unit, an area of land at least equal in size to the largest area used by him for grazing or forage on that unit during the last winter which ended before the date of his application;

⁽⁹⁾ Copies of the booklet are available from the Welsh Office Agriculture Department, Cathays Park, Cardiff CF1 3NQ.

- (c) to observe in relation to each participating production unit the management requirements in the Schedule;
- (d) to manage eligible moorland on each participating production unit in accordance with a management plan or management plans agreed in advance with the Secretary of State;
- (e) to ensure that the numbers of relevant livestock kept on each participating production unit do not exceed the highest respective numbers of them kept there during the last summer and winter which ended before the date of his application;
- (f) where sheep were away wintered from any participating production unit in the last winter which ended before the date of his application, to ensure that in any winter a number of sheep are away wintered not being less than the “minimum number” calculated as follows—

$$\text{minimum number} = \frac{ab}{c}$$

where—

a is the number of sheep in the eligible person’s flock in the winter in respect of which the calculation is made,

b is the number of sheep away wintered from the participating production unit in the last winter which ended before the date of the eligible person’s application, and

c is the number of sheep in the eligible person’s flock in the last winter which ended before the date of the eligible person’s application;

- (g) to ensure that the number of ewes kept on his holding does not exceed the reference flock, reduced by 10 or by a larger figure, specified in the undertaking, which will enable the eligible person to comply with the undertaking given by virtue of sub-paragraph (a) above and will result in significant environmental benefit for an area of at least 10 hectares of eligible moorland;
- (h) to ensure that any reduction in the number of ewes kept on his holding in order to enable him to comply with the undertaking given by virtue of sub-paragraph (a) above in respect of summer is achieved by reducing the number of ewes in his flock.

Applications for aid

4.—(1) An application for aid under these Regulations shall be made at such time and in such form, and shall include or be accompanied by such information as the Secretary of State reasonably may require to enable him to decide whether to accept the application.

(2) If required by the Secretary of State, the applicant shall provide evidence showing the nature of his estate or interest in or other right to graze ewes or relevant livestock on his holding.

(3) The Secretary of State shall acknowledge in writing the receipt of any application including the date of receipt by the Secretary of State of that application.

Restrictions on acceptance of applications

5.—(1) The Secretary of State shall not accept an application unless he is satisfied that, having regard to—

- (a) the condition of the eligible moorland on the applicant’s holding;
- (b) the management plan or plans which have been proposed in relation to that moorland; and
- (c) the right of any other person to use the holding for grazing,

compliance with the undertakings proposed in connection with the application will result in significant environmental benefit for an area of at least 10 hectares of eligible moorland.

(2) The Secretary of State shall not accept an application where he is satisfied that the proposals for reduction in stocking density contained in the application will result in undergrazing of any eligible moorland.

(3) The Secretary of State may refuse an application where he is satisfied that the applicant is or is likely to be, for the whole or any part of the extensification period, unable to comply with the extensification obligations.

(4) The Secretary of State shall not accept an application from a tenant to undertake extensification obligations in relation to any land unless he is satisfied that the tenant has notified the landlord of that land in writing of his intention to make the application.

(5) The Secretary of State may refuse to accept an application to undertake extensification obligations where he is satisfied that—

- (a) the implementation of any part of those undertakings would frustrate the purposes of any assistance previously given or to be given out of money provided by Parliament or the European Community; or
- (b) the payment of aid under these Regulations would duplicate any assistance previously given or to be given out of money provided by Parliament or by the European Community.

Applications to increase ewe numbers

6.—(1) A beneficiary may increase the number of ewes kept on his holding above the number required by virtue of regulation 3(g) where he has permission from the Secretary of State in accordance with this regulation and the increase is in accordance with such permission.

(2) A beneficiary may apply to the Secretary of State for permission to increase the numbers of ewes to be kept on his holding where such increase is or would arise as a result of the enlargement of the beneficiary's holding during the extensification period.

(3) An application under paragraph (2) shall be made in such form and shall contain or be accompanied by such information as the Secretary of State reasonably may require.

(4) The Secretary of State shall not accept an application under paragraph (2) unless he is satisfied that the proposed increase will not frustrate the fulfilment of the extensification obligations assumed by the beneficiary.

(5) Without prejudice to the generality of paragraph (4), the Secretary of State shall not accept an application under paragraph (2) where the proposed increase exceeds the maximum number of ewes which were kept on the acquired land in any of the three years preceding the acquisition of that land by the beneficiary and for which compensatory allowances were received in respect of any of those three years.

(6) In paragraph (5), “acquired land” means the land the acquisition of which has resulted or would result in the enlargement of the beneficiary's holding referred to in paragraph (2).

Change of occupation

7.—(1) Where there is a change of occupation, during the extensification period, of the whole or any part of a beneficiary's holding by reason of the devolution of that holding or part on the death of that beneficiary, or otherwise—

- (a) the beneficiary (or, if he has died, his personal representative) shall within 3 months (or, where the beneficiary has died and a personal representative is not appointed within three months, as soon as is practicable) notify the Secretary of State in writing of the change of occupation, and shall supply to the Secretary of State such information relating to that change of occupation in such form and within such period as the Secretary of State reasonably may determine;

- (b) subject to the provisions of this regulation, the new occupier of that holding or part may give an undertaking in writing to the Secretary of State to comply, for the remainder of the extensification period, with the extensification obligations assumed by the original occupier relating to that holding or part.
- (2) The Secretary of State shall not accept an undertaking from a new occupier of a holding or part of a holding to comply with extensification obligations assumed by the original occupier relating to that holding or part where any original participating production unit comprised in that holding has been divided into parts or has ceased to be farmed as a separate unit.
- (3) Where there is a change of occupation of part of a holding, or a holding is divided into parts on the death of the beneficiary, the Secretary of State may—
- (a) determine the undertakings which he reasonably believes should be given in respect of each part of the holding so as to ensure the environmental benefit for which undertakings were given by the original occupier is achieved; and
 - (b) apportion the entitlement to payments under these Regulations between the occupiers of the parts of the holding.
- (4) A new occupier who gives an undertaking to comply with the extensification obligations assumed by the original occupier shall supply to the Secretary of State such information in such form and within such period following the change of occupation as the Secretary of State reasonably may require.
- (5) Where the Secretary of State has accepted an undertaking from a new occupier to comply with the extensification obligations undertaken by the original occupier—
- (a) the new occupier shall be deemed to be a beneficiary; and
 - (b) his undertaking to comply with those extensification obligations shall be deemed to take effect on the date of the acceptance by the Secretary of State of that undertaking.
- (6) Where within 3 months from the date of change of occupation of the whole or any part of a beneficiary's holding an undertaking has not been given under this regulation to comply with the extensification obligations assumed by the original occupier in relation to each original participating production unit comprised in that holding (including any undertaking from the original occupier revised to take account of a determination by the Secretary of State under paragraph (3)), the Secretary of State may—
- (a) withhold the whole or any part of any payments due to the original occupier in so far as they relate to any such unit in respect of which an undertaking has not been given; and
 - (b) recover from the original occupier or his personal representatives the whole or any part of any payments of aid already made to him in so far as they related to any such unit in respect of which an undertaking has not been given.
- (7) Paragraph (6) above shall not apply where the change of occupation of a holding or part of a holding is the result of—
- (a) the death of the original occupier, and
 - (i) that original occupier occupied that holding or part as a tenant; and
 - (ii) following the death of that original occupier the tenancy or lease under which he occupied that holding or part was terminated by the landlord;
 - (b) the compulsory purchase of that holding or part; or
 - (c) the termination of a tenancy following the operation of a notice to quit to which the Agricultural Land Tribunal has consented under section 26(1) of the Agricultural Holdings Act 1986(1), having been satisfied as to any of the matters specified in section 27(3) of

that Act, or the termination of a tenancy following the service of a notice to quit stating that the circumstances in Case A, B, G or H of Schedule 3 to that Act apply.

(8) Where all or part of the land which has been compulsorily purchased was used for grazing or forage on a participating production unit, the area so used shall be subtracted, at the request of the beneficiary in writing, from the total area required to be used for the purposes of grazing or forage by the beneficiary.

(9) In this regulation, in relation to any change of occupation, “original occupier” means the occupier immediately before such change.

Amounts of aid and claims

8.—(1) Subject to the provisions of these Regulations, payments of aid shall be made in respect of each year in the extensification period.

(2) The amount of each yearly payment shall be £25 multiplied by the number specified in the undertaking given by virtue of regulation 3(g).

(3) The payment specified in paragraph (2) above may be reviewed by the Secretary of State each year.

(4) A claim for payment of aid under these Regulations shall be made at such time and in such form and shall contain such information as the Secretary of State may reasonably require.

Obligation to permit entry and inspection

9.—(1) A beneficiary shall permit any person duly authorised by the Secretary of State, accompanied by such other persons acting under the Secretary of State’s instructions as appear to the authorised officer to be necessary for the purpose, at all reasonable times and on production on demand of the authorised person’s authority, to enter upon the beneficiary’s holding in order to inspect any land, building, livestock, document or record, with a view to verifying—

- (a) the accuracy of any particulars given in any application under regulation 4 or 6(2) or any claim under regulation 8(4) or in connection with any undertaking given by a new occupier pursuant to regulation 7(1)(b); and
- (b) compliance with the extensification obligations.

(2) A beneficiary shall render all reasonable assistance to the authorised person in relation to the matters mentioned in paragraph (1), and in particular shall—

- (a) produce such document or record as may be required by the authorised person for inspection; and
- (b) at the request of the authorised person, accompany him in making the inspection of any land and identify any area of land which is concerned in any application or claim mentioned in paragraph (1) or in any undertaking given by a new occupier under regulation 7 to comply with the extensification obligations undertaken by the original occupier.

Withholding and recovery of aid and termination

10.—(1) Where any person, with a view to obtaining the payment of aid under these Regulations to himself or any other person, makes any statement or furnishes any information which is false or misleading in a material respect, the Secretary of State may withhold the whole or any part of any aid payable to that person or to such other person, and may recover the whole or any part of any aid already paid to that person or to such other person.

(2) Where a beneficiary—

(a) fails to comply with any of the extensification obligations; or
(b) fails without reasonable excuse to permit entry or inspection by an authorised person or to render all reasonable assistance to such authorised person as required by regulation 9, the Secretary of State may withhold the whole or any part of any aid payable to that beneficiary, and may recover the whole or any part of any aid already paid to him.

(3) In addition to withholding or recovering aid under paragraph (1) or (2), the Secretary of State may treat as terminated the undertakings given by the beneficiary under these Regulations.

(4) The Secretary of State may treat the undertakings given by any beneficiary as terminated where the beneficiary receives or is entitled to receive any assistance out of moneys provided by Parliament or the European Community and the Secretary of State is satisfied that such assistance would duplicate the payment of aid under these Regulations.

(5) Nothing in paragraph (4) entitles the Secretary of State to withhold any aid payable or to recover any aid already paid in respect of a period before the Secretary of State acted under that paragraph.

(6) Before withholding or recovering any aid under paragraph (2)(a) or treating an undertaking as terminated under paragraph (4), the Secretary of State shall—

- (a) give to the beneficiary a written explanation of the reasons for the proposed withholding or recovery of aid;
- (b) afford the beneficiary an opportunity of appearing before and being heard by a person appointed for that purpose by the Secretary of State; and
- (c) consider the report by the person so appointed and supply a copy of the report to the beneficiary.

False statements

11. If any person, for the purposes of obtaining for himself or any other person any aid under these Regulations, knowingly or recklessly makes a statement which is false in a material particular, that person shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

Signed by authority of the Secretary of State for Wales

Welsh Office
24th April 1995

Gwilym Jones
Parliamentary Under Secretary of State for
Wales,

SCHEDULE

Regulation 3(c)

MANAGEMENT REQUIREMENTS

1. As regards all moorland comprised in participating production units—
 - (1) the beneficiary shall not use fungicides or insecticides;
 - (2) the beneficiary shall not apply herbicides except where necessary to control bracken, nettles, spear thistle, creeping or field thistle, curled dock, broadleaved dock or ragwort or to carry out stump treatment of cleared scrub. Herbicides used for any of these purposes shall be applied by means of a weed wiper or spot treatment except in the case of bracken where asulam or any other chemical approved by the Secretary of State can be used in accordance with a programme agreed in advance with the Secretary of State;
 - (3) the beneficiary shall not plough, excavate, level, re-seed, chain-harrow, roll or otherwise cultivate the land;
 - (4) the beneficiary shall not apply any inorganic or organic fertiliser;
 - (5) the beneficiary shall not erect, replace or repair any fencing without the prior written approval of the Secretary of State;
 - (6) the beneficiary shall not install any new land drainage system and shall not modify any existing land drainage system so as to bring about increased drainage.
2. As regards all land (including moorland) comprised in participating production units—
 - (1) the beneficiary shall not damage, destroy or remove stockproof walls, hedges, banks, traditional weatherproof farm buildings, features of historical or archaeological interest or value, lakes, ponds, streams or other watercourses;
 - (2) the beneficiary shall not damage or destroy species-rich meadows, wetlands or other areas which in the opinion of the Secretary of State are of high conservation value;
 - (3) the beneficiary shall not damage, destroy or remove broadleaved woodland, field or hedgerow trees or scrub without the prior written approval of the Secretary of State;
 - (4) the beneficiary shall not overgraze any land or use unsuitable supplementary feeding methods.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations allow the Secretary of State to make payments of aid, in accordance with the Regulations, to farmers who reduce their flocks of ewes (regulation 3). The Regulations comply with Council Regulation (EEC) No. 2078/92 (OJ No. L215, 30.7.92, p.85) on agricultural methods compatible with the requirements of protection of the environment and the maintenance of the countryside (“the Agri-environmental Regulation”). The aid scheme implemented by these Regulations form part of the zonal programmes made by the United Kingdom in accordance with article 3 of the Agri-environmental Regulation. Those programmes were approved by the European Commission in accordance with Article 7 of that Regulation.

2. Payment will be at the rate of £25 for each ewe by which the flock is reduced and calculated in accordance with the Regulations (regulation 8). The rate of payment may be reviewed.

3. Aid will be available to farmers who have participating production units (defined in regulation 2(1)) which are within the areas indicated on maps deposited at the offices of the Welsh Office Agriculture Department, Cathays Park, Cardiff CF1 3NQ. The areas included are all “disadvantaged land” or “severely disadvantaged land” for the purposes of the Hill Livestock (Compensatory Allowances) Regulations 1994 (S.I.1994/2740).

4. Applicants for aid are required to give undertakings to the Secretary of State set out in regulation 3 and the Schedule. The undertakings relate to the stocking density of specified animals on “eligible moorland” on “participating production units”; to the management of “participating production units” and “eligible moorland” on them, and to the number of “ewes” kept. The undertakings are for an “extensification period” of 5 years (all quoted terms are defined in regulation 2(1)). The number of ewes kept on the holding may be increased above the level specified in the undertakings only with the permission of the Secretary of State given in accordance with regulation 6.

5. Regulation 4 provides for information and evidence which should be included in or accompany applications. The Secretary of State must acknowledge applications. Regulation 5 specifies circumstances in which the Secretary of State can or must refuse to accept an application.

6. Regulation 7 makes provisions for changes in occupation of the land subject to the undertakings (including on the death of the person who gave the undertakings). It enables the Secretary of State, in accordance with the regulation, to accept undertakings from a new occupier for the remainder of the extensification period. It specifies circumstances where the Secretary of State may treat the undertakings by the original occupier as terminated and recover all or part of any aid already paid if undertakings are not given by the new occupier within 3 months of a change of occupation.

7. By regulation 9, successful applicants for aid and those who have given undertakings under regulation 7 must allow a person authorised by the Secretary of State and specified other persons to enter the land for the purpose of monitoring of compliance by farmers with the undertakings and of the effectiveness of the schemes; reasonable assistance must be rendered to such persons.

8. Where a person who has given undertakings fails to comply with them, or there is failure without reasonable excuse to comply with the requirements of regulation 9, the Secretary of State may treat the undertakings as terminated and withhold or recover all or part of any aid due or paid. In the case of failure to comply with an undertaking, the Secretary of State may only withhold or recover aid after providing written reasons for his proposed action, affording an opportunity to be heard by a person appointed by the Secretary of State for the purpose, and considering the report of the appointed person (regulation 10). In accordance with regulation 10(4) and (5), the Secretary of State may also treat the undertakings as terminated — but not recover or withhold aid in respect of a period which has passed — where he is satisfied that the aid would duplicate other assistance. Regulation 11 creates an offence in relation to making false statements.

9. Producers who give undertakings under the Regulations will be participating in an extensification programme in accordance with the measure referred to in Article 2(1)(c) of the Agri-environmental Regulation. The Regulations permit the transfer and temporary lease of rights referred to in the first indent of the second paragraph of Article 7(4) of Commission Regulation (EEC) 3576/92 (OJ No. L362, 11.12.92, p.41, amended by Commission Regulation (EEC) 1720/94, (OJ No. L181, 15.7.94, p.6) laying down detailed rules for the application of the individual limits, national reserves and transfer of rights in the sheepmeat and goatmeat sector. The said second paragraph will therefore apply subject to the disapplication in the said first indent.

10. The Regulations apply to Wales only.