
STATUTORY INSTRUMENTS

1996 No. 2999

AGRICULTURE

The Beef (Marketing Payment) (No. 2) Regulations 1996

Made - - - - 29th November 1996
Laid before Parliament 2nd December 1996
Coming into force - - 3rd December 1996

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers 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 jointly, in exercise of the powers conferred on them by that section and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Title and commencement

1. These Regulations may be cited as the Beef (Marketing Payment) (No. 2) Regulations 1996 and shall come into force on 3rd December 1996.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—
“the appropriate Minister” means—

- (a) in relation to England, the Minister of Agriculture, Fisheries and Food; and
- (b) in relation to Scotland, Wales and Northern Ireland, the Secretary of State;

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

“beef producer” means a producer within the meaning of Article 4(a) of Council Regulation (EEC) No. 805/68⁽³⁾ on the common organisation of the market in beef and veal;

“holding” has the meaning given by Article 4(a) of Council Regulation (EEC) No. 805/68;

“movement record”, in relation to a bovine animal, means a record made for the purposes of recording the movement of the animal to or from a holding;

(1) S.I.1972/1811.

(2) 1972 c. 68.

(3) O.J. No. L148, 28.6.68, p. 24 (OJ/SE 1968, vol. 1, p. 187).

“payment” means a payment under these Regulations; and

“the specified period”, for the purposes of regulation 5, is the period of four years beginning on the date on which an application for payment was delivered to the appropriate Minister.

(2) Except in so far as the context otherwise requires, any reference in these Regulations to a numbered regulation shall be construed as a reference to the regulation bearing that number in these Regulations.

Payment

3.—(1) Subject to the following provisions of these Regulations, the appropriate Minister may make a payment to a beef producer in respect of any heifer, steer or bull—

- (a) kept prior to 20th March 1996 on a holding belonging to that producer;
- (b) either—
 - (i) sold by that producer after 30th June 1996 and before 1st October 1996 for slaughter for human consumption; or
 - (ii) slaughtered by that producer or on his behalf after 19th March 1996 and before 1st October 1996 for sale for human consumption;
- (c) for which no payment was made under the Beef (Marketing Payment) Regulations 1996⁽⁴⁾; and
- (d) the carcase of which was, at the date of slaughter, within category A, B, C, or E as defined in Council Regulation (EEC) No. 1208/81⁽⁵⁾ determining the Community scale for the classification of carcasses of adult bovine animals.

(2) A payment may be made at such time and in such amount as the appropriate Minister may determine.

Applications for payment

4.—(1) An application for payment shall be in such form, and shall contain such particulars and be accompanied by such documents relating to the application, as the appropriate Minister may require.

(2) A beef producer who applies for payment shall deliver his application to the appropriate Minister by 8th January 1997.

Records

5. A beef producer shall, in relation to any animal for which he has applied for payment, retain for the specified period any account, bill, invoice, movement record, slaughter record, receipt, sales note, voucher or other record relating to that animal.

Powers of authorised persons

6.—(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—

- (a) for any purpose relating to the processing of an application for payment; or
- (b) for the purpose of ascertaining whether any offence under these Regulations has been or is being committed.

(4) S.I. 1996/2005, amended by S.I. 1996/2561.

(5) O.J. No. L123, 7.5.81, p. 3.

(2) An authorised person may enter any land, other than land used solely as a private dwelling-house, which is, or which he has reasonable cause to believe to be, land currently or formerly occupied by or in the possession of—

- (a) an applicant for payment; or
- (b) a person who holds or who has been the holder of a licence under the Fresh Meat (Hygiene and Inspection) Regulations 1995⁽⁶⁾.

(3) An authorised person who has entered any land by virtue of paragraph (2) above may—

- (a) inspect and count any bovine animals on the land and read the ear-tags of any such animal; and
- (b) inspect any account, bill, invoice, movement record, slaughter record, receipt, sales note, voucher or other record relating to any bovine animal.

(4) An authorised person entering any land by virtue of paragraph (2) above may take with him such other persons as he considers necessary.

(5) An authorised person may—

- (a) require an applicant for a payment, or any employee, servant or agent of such a person, to produce any account, bill, invoice, movement record, slaughter record, receipt, sales note, voucher or other record relating to any animal for which an application for payment has been made, and to supply such additional information in that person's possession, custody or power relating to any such animal as the authorised person may reasonably request;
- (b) where any account, bill, invoice, movement record, slaughter record, receipt, sales note, voucher or other record relating to any animal for which an application for payment has been made 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 in use in connection with any such records;
- (c) require that copies of, or extracts from, any account, bill, invoice, movement record, slaughter record, receipt, sales note, voucher or other record relating to any animal for which an application for payment has been made be produced; and
- (d) seize and retain any such record 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

7. An applicant for payment and any employee, servant or agent of such a person, shall give to an authorised person such assistance as he may reasonably request to enable him to exercise any power conferred by regulation 6.

Recovery of payment

8. Where a payment has been made—

- (a) in respect of an animal which does not satisfy the requirements of regulation 3; or
- (b) to a person who, in making the application for payment, or in furnishing any information in connection with the application, has made a statement which is false, misleading or incomplete in any material respect,

the appropriate Minister shall be entitled to recover on demand from the recipient of the payment the whole or any part of the payment.

(6) S.I. 1995/539, amended by S.I. 1995/3189 and 1996/1148.

Rate of interest

9. Except where the appropriate Minister recovers from any applicant a payment or part of a payment paid to that applicant as a result of an error of that Minister, he may charge interest on any payment recovered under regulation 8 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 from the date of payment to the date of reimbursement by the applicant.

Offences and penalties

- 10.—(1) It shall be an offence for a person—
- (a) without reasonable excuse, to fail to comply with the provisions of regulation 5;
 - (b) intentionally to obstruct an authorised person in the exercise of a power conferred by regulation 6; or
 - (c) without reasonable excuse, to fail to comply with a request made under regulation 7.
- (2) It shall be an offence for a person knowingly or recklessly to furnish information which is false or misleading in a material particular—
- (a) in connection with any requirement imposed under regulation 6; or
 - (b) for the purpose of obtaining for himself or another person the whole or part of any payment.
- (3) A person guilty of an offence under paragraph (1)(a) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) A person guilty of an offence under paragraphs (1)(b) or (c) or (2) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Time limit for prosecutions

- 11.—(1) Proceedings for an offence under regulation 10 may, subject to paragraph (2) below, be commenced within the period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.
- (2) No such proceedings shall be commenced by virtue of this regulation more than four years after the commission of the offence.
- (3) For the purposes of this Regulation—
- (a) 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; and
 - (b) a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.
- (4) In relation to proceedings in Scotland, section 136(3) of the Criminal Procedure (Scotland) Act 1995(7) (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

- 12.—(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

(7) 1995 c. 46.

(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 liable to be proceeded against and punished in accordance with regulation 10.

(2) For the purposes of paragraph (1) above, “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 in accordance with regulation 10.

28th November 1996

Angela Browning
Parliamentary Secretary, Ministry of Agriculture,
Fisheries and Food

Scottish Office
29th November 1996

Lindsay
Parliamentary Under Secretary of State,

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for payments by the appropriate Minister (defined in regulation 2) to beef producers in the United Kingdom in pursuance of Article 4(b) of Council Regulation (EC) No. 1357/96 (O.J. No. L175, 13.7.96, p. 9), which permits Member States to make additional payments to producers in the beef and veal sector.

Payments may be made in respect of certain bovine animals sold after 30th June 1996 and before 1st October 1996 for slaughter for human consumption, and also in respect of animals slaughtered after 19th March and before 1st October 1996 by or on behalf of a beef producer for sale for human consumption.

Regulation 5 requires a producer who has made an application under the Regulations to retain for four years specified records relating to the animal in respect of which he made the application. Regulation 6 confers on authorised persons powers of entry and inspection as well as powers of seizure and retention of records, and regulation 7 requires that such assistance as may be reasonably requested by authorised persons be given by applicants for payments and their employees and agents.

Regulation 8 specifies the circumstances in which payments made to a producer may be recovered by the appropriate Minister and regulation 9 provides for the payment of interest on overdue payments. Regulation 10 creates offences and prescribes penalties. Regulation 11 specifies time limits for bringing prosecutions and regulation 12 makes provision for dealing with offences committed by corporate bodies and Scottish partnerships.