

1987 No. 92

AGRICULTURE

**The Hill Livestock (Compensatory Allowances) Regulations
(Northern Ireland) 1987***Made* 4th March 1987*Coming into operation* 1st April 1987

The Department of Agriculture being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred upon it by that section and of every other power enabling it in that behalf hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1987 and shall come into operation on 1st April 1987.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these Regulations as it applies to a measure of the Northern Ireland Assembly.

(2) In these regulations—

“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 other agricultural purposes;

“approved breed” means any hardy breed or cross breed of sheep approved by the Department for the purposes of these regulations, being a breed or cross breed which is suitable for breeding and rearing on land in respect of which the severity of the permanent natural handicaps affecting the breeding and rearing of sheep on that land is greater than that affecting the breeding and rearing of sheep on severely disadvantaged land generally;

“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 qualifying day—

(a) has borne a calf, or

(a) S.I. 1972/1811

(b) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.R. 1984 No. 253

(c) 1954 c. 33 (N.I.)

(b) has been brought into the herd primarily for the purpose of replacing an animal which has borne a calf, and is, in the opinion of the Department, suitable for the purpose of bearing a calf during the year following the qualifying day;

“the Department” means the Department of Agriculture for Northern Ireland;

“designated map” means the map marked “map of less-favoured farming areas in Northern Ireland”, dated 4th April 1984, signed by the Secretary of State and deposited at the offices of the Department of Agriculture for Northern Ireland at Dundonald House, Upper Newtownards Road, Belfast, BT4 3SB;

“disadvantaged land” means land—

(a) which is, in the opinion of the Department, 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 such land, and

(b) whose agricultural production is, in the opinion of the Department, restricted in its range by, or by any combination of, soil, relief, aspect or climate,

which land is within the area shaded blue or shaded pink on the designated maps;

“eligible land” means an area of land of not less than three hectares, being land—

(a) which is situated in an area included in the list of less-favoured farming areas adopted by the Council or the Commission of the European Communities under Article 2(2) of Council Directive No. 75/268/EEC on mountain and hill farming and farming in certain less-favoured areas(a), and

(b) which is severely disadvantaged land or disadvantaged land;

“ECU” means the unit of account used for the purposes of the common agricultural structures policy of the European Economic Community, 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 exchange rate applicable on the qualifying day in the year in which the compensatory allowance is paid;

“ewe” means a female sheep which, on the qualifying day, is more than one year old;

“occupier” includes a person who has a right to use eligible land for the purpose of grazing cattle or sheep;

“qualified flock” means a flock of ewes which is kept on eligible land, or on eligible land and other land used with it, for the breeding and rearing of lambs, and which is, in the opinion of the Department, maintained and managed in accordance with sound husbandry practice;

(a) O.J. No. L128, 19.5.1975, p. 1. Council Directive 75/268/EEC was amended by Council Directive 80/666/EEC (O.J. No. L180, 14.7.1980, p. 34)

“the qualifying day” means, in respect of any year in which a compensatory allowance may be paid under these regulations, 1st January in that year;

“regular breeding herd” means a herd of cattle which is kept on eligible land, or on eligible land and other land used with it, and which—

- (a) has, on the qualifying day, been in existence for a period of at least six months,
- (b) is, in the opinion of the Department, maintained primarily for the purpose of breeding and rearing calves, and
- (c) is, in the opinion of the Department, reasonably constant in its composition and maintained and managed in accordance with sound husbandry practice;

“relevant afforested land” means land which in the opinion of the Department has been converted to forest on or after 1st January 1986 by or on behalf of a person to whom a compensatory allowance was paid under these regulations, the Hill Livestock (Compensatory Allowances) Regulations 1984(a), the Hill Livestock (Compensatory Allowances) Regulations 1979(b) or the Hill Livestock (Compensatory Allowances) Regulations 1975(c) in respect of that land 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 12(1)(f) of the Social Security (Northern Ireland) Act 1975(d) and a category C and category D pension within the meaning of section 34(1)(e) of that Act;

“severely disadvantaged land” means land—

- (a) which is, in the opinion of the Department 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 such land, and
- (b) whose agricultural production is, in the opinion of the Department, severely restricted in its range by, or by any combination of, soil, relief, aspect or climate,

which land is within the area shaded pink on the designated maps;

“specially qualified flock” means a qualified flock in which all, or in the opinion of the Department substantially all, of the ewes comprised in the flock are of an approved breed, and which is maintained on severely disadvantaged land and other land used with it;

“the United Kingdom regulations” mean the Hill Livestock (Compensatory Allowances) Regulations 1984 and the Hill Livestock (Compensatory Allowances) (Amendment) Regulations 1985.

(a) S.I. 1984/2024 amended by S.I. 1985/2075

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

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

(d) 1975 c. 15

Compensatory allowances

3.—(1) Subject to the provisions of these regulations, the Department may in respect of the year 1985 and each succeeding year pay to any person who is on the qualifying day in that year the occupier of eligible land, a compensatory allowance for cattle and sheep maintained by him on that day, being cattle comprised in a regular breeding herd and sheep comprised in a qualified flock.

(2) Subject to regulations 3(4) and 4 a compensatory allowance for cattle shall be payable in respect of the number of breeding cows comprised in a herd on the qualifying day at the following rates—

- (a) in the case of cows maintained by a person whose only eligible land is severely disadvantaged land, £54·50 or 101 ECU per cow, whichever is the less;
- (b) in the case of cows maintained by a person whose eligible land comprises severely disadvantaged land and disadvantaged land—
 - (i) £54·50 or 101 ECU per cow, whichever is the less, up to an amount calculated by multiplying the total number of hectares of severely disadvantaged land which is available to that person in accordance with paragraph (4)(a) or which is relevant afforested land by £62·48 or 101 ECU, whichever is the less and deducting from the resulting figure any allowances payable in respect of sheep maintained by that person under paragraph (3) (other than such allowances payable at the rate of £2·25 or 15·15 ECU per ewe); and
 - (ii) thereafter £27·25 or 101 ECU per cow, whichever is the less;
- (c) in the case of cows maintained by a person whose only eligible land is disadvantaged land, £27·25 or 101 ECU per cow, whichever is the less.

(3) Subject to regulations 3(4) and 5, a compensatory allowance for sheep shall be payable in respect of the number of ewes comprised in a flock on the qualifying day at the following rates—

- (a) in the case of ewes of an approved breed comprised in a specially qualified flock, £6·75 or 15·15 ECU per ewe, whichever is the less;
- (b) in the case of ewes not referred to in sub-paragraph (a) maintained by a person—
 - (i) whose only eligible land is severely disadvantaged land, £4·50 or 15·15 ECU per ewe, whichever is the less;
 - (ii) whose eligible land comprises severely disadvantaged land and disadvantaged land, £4·50 or 15·15 ECU per ewe, whichever is the less, for a number of ewes calculated by multiplying the total number of hectares of severely disadvantaged land which is available for the maintenance of the flock in accordance with regulation 5(2)(c) or which is relevant afforested land by 6, and deducting from the resulting figure the number of ewes, if any, falling within sub-paragraph (a) which are kept on that land, and thereafter for additional ewes £2·25 or 15·15 ECU per ewe, whichever is the less;

- (iii) whose only eligible land is disadvantaged land £2.25 or 15.15 ECU per ewe, whichever is the less.

(4) Notwithstanding the provisions of paragraphs (2) and (3) the total amount of a compensatory allowance which may be paid in respect of any year—

- (a) to the occupier of severely disadvantaged land, shall not exceed £62.48 or 101 ECU, whichever is the less, for each hectare of such land which appears to the Department to have been available to that occupier in the preceding year for the maintenance of his herd or flock or which is relevant afforested land;
- (b) to the occupier of disadvantaged land, shall not exceed £46.86 or 101 ECU, whichever is the less, for each hectare of such land which appears to the Department to have been available to that occupier in the preceding year for the maintenance of his herd or flock or which is relevant afforested land.

(5) A compensatory allowance in respect of any year shall only be paid to an occupier of eligible land if (except in the case of such an occupier who is in receipt of a retirement pension) he has entered into a written undertaking in such form as the Department may require to the effect that he will, for a period of five years from the first payment of a compensatory allowance under these regulations continue to use eligible land for agricultural purposes.

Provisions with respect to cattle

4.—(1) Subject to the following provisions of this regulation, where the Department is of the opinion that the number of breeding cows comprised in a regular breeding herd on the qualifying day is greater or less than the number of breeding cows which it is satisfied has been the number normally comprised in that herd throughout the preceding year or, in the case of a herd newly established or re-established in that year, throughout such shorter period as the Department may determine (including, as breeding cows for this purpose heifers which have become, or would in its opinion have become, breeding cows by that qualifying day), a compensatory allowance shall be payable in relation to that qualifying day in respect of the number of breeding cows which the Department is satisfied is the number of breeding cows which has been normally so comprised in the herd.

(2) For the purposes of paragraph (1) the Department may disregard any temporary reduction in numbers where it is satisfied that such reduction was or is due to deaths or disposals of cows, and that those cows have been or will be suitably replaced as soon as reasonably practicable.

(3) Where the Department is satisfied that—

- (a) the number of breeding cows comprised in a regular breeding herd on a qualifying day is less than the number normally comprised in that herd, and that the reduction is due to the slaughter of cows in the herd in the course of brucellosis eradication, and
- (b) the person to whom a compensatory allowance in respect of that herd may be paid will make satisfactory arrangements for those animals to be suitably replaced in the herd as soon as reasonably practicable, and

for repayment of any compensatory allowance paid in respect of any such animal in the event of its not being so replaced,

a compensatory allowance shall be payable in relation to that qualifying day in respect of such number of breeding cows as would, in the opinion of the Department, have been comprised in that herd on that qualifying day had its numbers not been reduced by reason of such slaughter.

(4) Where, in the opinion of the Department, an appreciable quantity of milk has been produced by a regular breeding herd in the period of 12 months immediately preceding the qualifying day, and such milk has been sold or used for the manufacturer of milk products for sale, a compensatory allowance shall be payable in relation to that qualifying day in respect of the number of breeding cows comprised in the herd on that day, reduced by such number as appears to the Department to be the number of cows in the herd required to produce that quantity of milk in that period.

(5) Notwithstanding the foregoing provisions of these regulations, the number of breeding cows in respect of which compensatory allowance may be paid in relation to any qualifying day shall not exceed either of the following numbers, that is to say—

- (a) where the number of calves produced by the herd in the year preceding that day is, in the opinion of the Department, unusually low for a herd of its size, such number of breeding cows as it considers to be reasonable, regard being had to the number of calves so produced; or
- (b) the number of breeding cows which, in the opinion of the Department, the land on which the herd was substantially grazed and maintained in the year preceding that day was capable of carrying without overgrazing it, taking into account the number of other animals grazed and maintained on that land in that year.

Provisions with respect to sheep

5.—(1) A compensatory allowance for sheep shall not be paid in respect of any ewe the use of which for breeding would not, in the opinion of the Department, be in accordance with sound husbandry practice.

(2) Subject to paragraph (1) and notwithstanding the foregoing provisions of these regulations, the number of ewes in respect of which compensatory allowance may be paid in relation to any qualifying day may not exceed—

- (a) the number of ewes which the Department may determine as the number of ewes which it is satisfied has been comprised in the flock throughout the greater part of the year preceding that day or, in the case of a flock newly established or re-established in that year, throughout such shorter period thereof as the Department may determine, disregarding—
 - (i) any seasonal variation in number, and
 - (ii) any losses which it is satisfied have been or will be made good, or cannot reasonably be made good, within a reasonable period;
- (b) the number of ewes which, in the opinion of the Department, is reasonable, having regard to the number of lambs produced in the year preceding the qualifying day;

- (c) a number calculated at the rate of—
- (i) six ewes for each hectare of severely disadvantaged land, and
 - (ii) nine ewes for each hectare of disadvantaged land,
- being land which the Department is satisfied was available for the maintenance of the flock throughout the greater part of the year preceding that day, or throughout such shorter period of that year as is referred to in sub-paragraph (a) or which is relevant afforested land; or
- (d) the number of ewes which the Department determines to be the number which the land on which the flock was substantially grazed and maintained in the year preceding that day was, in its opinion, capable of carrying without overgrazing, taking into account the number of other animals grazed and maintained on the land in that year.

Power of Department to apportion eligible land in certain cases

6. Where it appears to the Department that on the qualifying day in any year or during the year immediately preceding that qualifying day, any land was available for the maintenance of—

- (a) more than one regular breeding herd,
- (b) more than one qualified flock, or
- (c) breeding cows comprised in a regular breeding herd and ewes comprised in a qualified flock,

the Department may, for the purpose of determining any person's entitlement under the foregoing provisions of these regulations, apportion that land among the occupiers or former occupiers thereof as it thinks reasonable in the circumstances.

Applications for compensatory allowances

7.—(1) Payment of a compensatory allowance shall not be made unless an application for that payment has been submitted to the Department in such form and at such time as it may require.

(2) If a person authorised by the Department so requires, the herd or flock to which an application relates shall be gathered together at a convenient place for the purpose of counting and inspection, and such documents or records as may be required by the Department shall be produced for inspection in support of any application.

(3) In any counting of sheep, a reasonable allowance may be made for dead or ungathered animals.

Release from undertaking

8.—(1) A person in receipt of a compensatory allowance under these regulations shall be released from the undertaking referred to in regulation 3(5) where—

- (a) he is in receipt of a retirement pension; or
- (b) he is prevented from continuing to discharge that undertaking by reason of any material circumstances beyond his control.

(2) A person in receipt of a compensatory allowance under these regulations may be released from that undertaking where 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.

Recovery of compensatory allowances

9. Where any person—

- (a) with a view to obtaining payment to himself or to any other person of a compensatory allowance under these regulations makes any statement which is untrue or misleading in a material particular, or
- (b) having given an undertaking under regulation 3(5) which has not been released in accordance with regulation 8, fails in any way to comply with the terms thereof, or
- (c) fails to replace animals in accordance with regulation 4(2) or (3) in respect of which a compensatory allowance has been paid under the provisions of these regulations, or
- (d) being a person in receipt of a compensatory allowance under these regulations, fails to comply with a requirement by a person authorised by the Department to gather a herd or flock for counting and inspection or to produce documents or records required by the Department in accordance with regulation 7(2);

the Department shall be entitled to recover on demand as a civil debt the whole or any part of any compensatory allowance paid to him or to such other person.

False statements

10. If any person for the purpose of obtaining for himself or any other person a compensatory allowance under these regulations knowingly or recklessly makes a false statement, he shall be liable on summary conviction to a fine not exceeding £1,000.

Revocation

11. The United Kingdom Regulations are hereby revoked insofar as they form part of the law of Northern Ireland.

Transitional provisions

12.—(1) For the purposes of these regulations, any application made, undertaking given or act or other thing done under the United Kingdom regulations shall be deemed to have been made, given or done (as the case may be) under these regulations and anything begun under the United Kingdom regulations may be continued under these regulations as if begun under these regulations.

(2) Without prejudice to section 28 of the Interpretation Act (Northern Ireland) 1954, where immediately before the coming into force of these regulations the Minister was entitled to recover the whole or any part of a compensatory allowance paid under the Hill Livestock (Compensatory Allowances) Regulations 1984, the Department shall be entitled to recover that allowance or part thereof as if it had been paid under these regulations.

(3) In this regulation "Minister" means the Minister of Agriculture, Fisheries and Food.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on 4th March 1987.

(L.S.)

D. A. J. Hirrell

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations implement part of Council Directive No. 75/268/EEC (O.J. No. L128, 19.5.75, p. 1), as amended by Council Directive 80/666/EEC (O.J. No. L180, 14.7.80, p. 34) and comply with Articles 13 to 15 of Council Regulation (EEC) No. 797/85 (O.J. No. L93, 30.3.85, p. 1) on improving the efficiency of agricultural structures.

These regulations revoke and re-enact the Hill Livestock (Compensatory Allowances) Regulations with amendments to facilitate the transfer to the Department of Agriculture for Northern Ireland from the Minister of Agriculture, Fisheries and Food of responsibility for administering the rules regarding the payment in Northern Ireland of an annual compensatory allowance for eligible breeding cows and ewes maintained by an occupier of less favoured land included in the list of such areas adopted under Article 2 of Council Directive 75/268/EEC (the full list of less favoured farming areas is contained in Council Directive No. 84/169/EEC (O.J. No. L82, 26.3.84, p. 67), and which is "severely disadvantaged" or "disadvantaged land" (as defined in the regulations). Severely disadvantaged land and disadvantaged land must be respectively within the area shaded pink, or within the area shaded blue or pink, on the designated map referred to in the regulations.

The rates of allowance payable for eligible animals kept on severely disadvantaged land are £54.50 per cow and £6.75 per ewe in a specially qualified flock or £4.50 for other ewes and are subject to an overall financial limit of £62.48 or 101 ECU whichever is the less, per hectare of land available for the herd or flock and a stocking limit of 6 ewes per hectare of such land. For eligible animals kept on disadvantaged land, the rates of allowance are £27.25 per cow and £2.25 per ewe subject to an overall financial limit of £46.86 or 101 ECU whichever is the less, per hectare of available land and a stocking limit of 9 ewes per hectare of such land. Where both severely disadvantaged land and disadvantaged land are occupied, provision is made for allocating allowances at the higher and lower rates among the cows and ewes maintained on the two categories of land (regulation 3(2)-(4)). Further provisions affecting the number of cattle and sheep in respect of which an allowance may be paid are set out in regulation 4 and 5.

Where a person in receipt of an allowance afforests land used as a basis for calculating the allowance, those areas may continue to be taken into account for calculating the allowance for 15 years from the date of afforestation (regulations 2(2); 3(2)(b)(i), 3(2)(b)(ii), 3(4) and 5(2)(c)(ii)).

The terms of the undertaking required from applicants and the provisions relating to release from that undertaking to comply with Council Regulation 797/85 are set out in regulations 3(5) and 8.

Regulation 9 enables the Department to recover allowances paid under the circumstances there specified.

Knowingly or recklessly making a false statement for the purpose of obtaining an allowance is punishable on summary conviction by a maximum fine of £1,000 (regulation 10).

The designated map referred to in these regulations is available for inspection during normal office hours at the address specified in the definition of "designated map" (regulation 2(2)). Copies of the map may be inspected at any County Agricultural Executive Office or selected Area Offices of the Department.

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This Order has been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. A summary is given in the List of Statutory Rules of a Local Character under the heading ROADS.