
SCOTTISH STATUTORY INSTRUMENTS

1999 No. 187

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

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Hill Livestock (Compensatory Allowances) Regulations 1999, and shall come into force on 18th December 1999.

(2) These Regulations extend to Scotland and to land outside Scotland for which Scottish Ministers are the appropriate authority.

Interpretation

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

“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 woodlands where that use is ancillary to the use of land for other agricultural purposes, and “agricultural” shall be construed accordingly;

“the appropriate authority” means in relation to claimants who maintain breeding cows or ewes on eligible land included in an area aid application submitted to the Secretary of State for Scotland in 1999, the Scottish Ministers;

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

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

“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—

- (a) has borne a calf on or before the day on which a claim is lodged for a compensatory allowance for it or, in the case of a claim accepted as valid pursuant to regulation 11(4) below on the day the claim was received by the appropriate authority, and is, or was, capable of lactation on that day; or
- (b) has not yet borne a calf but is in calf on the day on which a claim is lodged for a compensatory allowance for it, or, in the case of a claim accepted as valid pursuant to regulation 11(4), on the day the claim was received by the appropriate authority, and
 - (i) has been added to the herd to replace, for the purposes of an application for the premium for maintaining suckler cows made in 1999 pursuant to regulation 3 of the 1993 Suckler Cow Regulations, an animal included in that application, and
 - (ii) was in calf when it was so added to the herd, and
 - (iii) is otherwise eligible for the said premium;

“claimant” means a person who has made a claim for a compensatory allowance under these Regulations;

“Commission Regulation 2385/91” means Commission Regulation (EEC) No. 2385/91 laying down detailed rules for certain special cases regarding the definition of sheepmeat and goatmeat producers and producer groups(1);

“Commission Regulation 3887/92” means Commission Regulation (EEC) No. 3887/92 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes(2);

“Commission Regulation 1750/1999” means Commission Regulation (EC) No. 1750/1999 laying down detailed rules for the application of Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF)(3);

“compensatory allowance” means the allowance payable under regulation 3;

“Council Regulation 3493/90” means Council Regulation (EEC) No. 3493/90 laying down general rules for the grant of premiums to sheepmeat and goatmeat producers(4);

“Council Regulation 3508/92” means Council Regulation (EEC) No. 3508/92 establishing a integrated administration and control system for certain Community aid schemes(5);

“Council Regulation 1257/1999” means Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations(6) as read with Commission Regulation No. 2603/1999 laying down transitional rules for rural development support(7);

“designated maps” means–

- (a) in relation to Scotland, the four maps numbered 1 to 4, each map being marked “map of less favoured farming areas in Scotland” and with the number of the map, dated 15th May 1991, signed by the Secretary of State for Scotland and deposited at the offices of the Scottish Executive Rural Affairs Department at Pentland House, 47 Robb’s Loan, Edinburgh EH14 1TW; and
- (b) in relation to land in England or Wales in respect of which the Scottish Ministers are the appropriate authority–
 - (i) in relation to England, the three volumes of maps numbered 1 to 3, each volume being marked “volume of maps of less favoured farming areas in England” and with the number of the volume, dated 20th May 1991, signed and sealed by the Minister of Agriculture, Fisheries and Food and deposited at the offices of the Ministry of Agriculture, Fisheries and Food at Nobel House, 17 Smith Square, London SW1P 3HX; and
 - (ii) in relation to Wales, the two volumes of maps numbered 1 and 2, each volume being marked “volume of maps of less favoured farming areas in Wales” and with the number of the volume, dated 20th May 1991, signed by the Secretary of State for Wales and deposited at the offices of the National Assembly for Wales Agriculture Department at Cathays Park, Cardiff CF1 3NQ;

“disadvantaged land” (except in the expression “severely disadvantaged land”) means–

- (a) the land shown coloured blue or pink on the designated maps for Scotland–
 - (i) which is in the opinion of the appropriate authority inherently suitable for extensive livestock production but not for the production of crops in quantity materially

(1) O.J. No. L219, 7.8.91, p.15, last amended by Commission Regulation (EC) No. 2143/96 (O.J. No. L286, 8.11.96, p.10).

(2) O.J. No. L391, 31.12.92, p.36, last amended by Commission Regulation (EC) No. 1678/98 (O.J. No. L212, 30.7.98, p.23).

(3) O.J. No. L214, 13.8.1999, p.31.

(4) O.J. No. L337, 4.12.90, p.7, last amended by Council Regulation (EC) No. 233/94 (O.J. No. L30, 3.2.94, p.9).

(5) O.J. No. L355, 5.12.92, p.1, last amended by Council Regulation (EC) No. 1036/1999 (O.J. No. L127, 21.5.1999, p.4).

(6) O.J. No. L160, 26.6.1999, p.80.

(7) O.J. No. L316, 10.12.1999, p.26.

greater than that necessary to feed such livestock as are capable of being maintained on that land, and

- (ii) whose agricultural production is in the opinion of the appropriate authority restricted (but not severely restricted) in its range by soil, relief, aspect or climate; and
- (b) in relation to land in England or Wales in respect of which the Scottish Ministers are the appropriate authority the land shown coloured blue on the designated maps for England and Wales;

“eligible land” means an area of land of not less than 3 hectares which is severely disadvantaged land or disadvantaged land;

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

“forage area” has the same meaning as in Commission Regulation 3887/92 and must fulfil the requirement in Article 2(1)(c) of that Regulation;

“hardy breed or hardy cross breed” means a breed or cross breed of sheep which is in the opinion of the appropriate authority suitable for breeding and rearing on land where the severity of the permanent natural handicaps affecting the breeding and rearing of sheep on it is greater than that affecting the breeding and rearing of sheep on severely disadvantaged land generally;

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

“livestock unit” means a unit of measurement of livestock numbers, and the following constitute a single livestock unit:–

- (a) one breeding cow;
- (b) one in calf bovine animal used to replace a breeding cow in accordance with regulation 9(1);
- (c) 6.67 ewes; or
- (d) 6.67 female sheep (not being ewes) used to replace ewes in accordance with regulation 9(3);

“the 1996 Order” means the Sheep and Goats (Records, Identification and Movement) Order 1996(8);

“overgrazing” means grazing land with livestock in such numbers as adversely to affect the growth, quality of species composition of vegetation (other than vegetation normally grazed to destruction) on that land to a significant degree, and “overgrazed” shall be construed accordingly;

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

“qualified flock” means a flock of sheep which is usually kept on a production unit which includes disadvantaged land or severely disadvantaged land and which is, in the opinion of the appropriate authority–

- (a) maintained primarily for the purpose of breeding and rearing lambs; and
- (b) maintained and managed in accordance with sound husbandry practice, and includes a specially qualified flock;

“regular breeding herd” means a herd of cattle which is usually kept on a production unit which includes disadvantaged land or severely disadvantaged land and which is, in the opinion of the appropriate authority–

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

- (b) maintained and managed in accordance with sound husbandry practice;
- “the 1975 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1975(9);
- “the 1979 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1979(10)
- “the 1984 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1984(11);
- “the 1994 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1994(12);
- “the 1996 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1996(13);
- “the 1998 Regulations” means the Cattle Identification Regulations 1998(14);
- “relevant afforested land” means land which in the opinion of the appropriate authority was converted to forest on or after 1st January 1986 and before 1st January 1988 by or on behalf of a person to whom a compensatory allowance was paid in respect of the land under the 1975 Regulations, the 1979 Regulations or the 1984 Regulations 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 on which such conversion was completed;
- “retention period” means the minimum period for which the claimant must maintain animals for which a compensatory allowance is claimed, which is–
- (a) in relation to breeding cows, where a claim for a compensatory allowance for those breeding cows is lodged in accordance with Regulation 11(1), three months commencing on the day after that on which the claim is lodged;
 - (b) in relation to breeding cows, where a claim for a compensatory allowance for those breeding cows is received by the appropriate authority before the day on which these Regulations come into force, and accepted as valid pursuant to regulation 11(4), a period commencing on that day and expiring at the end of a three month period commencing on the day after that on which the claim was received; and
 - (c) in relation to ewes, 100 days commencing on the last day provided for in regulation 11(2) for lodging a claim for a compensatory allowance for ewes.
- “retirement pension” means a category A and category B pension within the meaning of section 20(1)(f) of the Social Security Contributions and Benefits Act 1992(15), a category C and category D pension within the meaning of section 63(f) of that Act, or graduated retirement benefit as referred to in Schedule 1 to the 1978 Social Security Regulations;
- “Scheme Year” means the calendar year 2000;
- “severely disadvantaged land” means–
- (a) the land shown coloured pink on the designated maps for Scotland–
 - (i) which is in the opinion of the appropriate authority inherently suitable for extensive livestock production but not for the production of crops in quantity materially

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

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

(11) 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, insofar as they applied to Northern Ireland, by S.R. (N.I.) 1987 No. 92 and, insofar as they applied to Great Britain, by S.I. 1992/269.

(12) S.I. 1994/2740, amended by S.I. 1995/100, S.I. 1995/1481, S.I. 1995/2778 and S.I. 1996/27 and revoked by S.I. 1996/1500.

(13) S.I. 1996/1500, amended by S.I. 1997/33, S.I. 1998/206 and S.I. 1999/375.

(14) S.I. 1998/871, amended by S.I. 1998/1796, S.I. 1998/2969 and S.I. 1999/1339.

(15) 1992 c. 4.

greater than that necessary to feed such livestock as are capable of being maintained on that land, and

- (ii) whose agricultural production is in the opinion of the appropriate authority severely restricted in its range by soil, relief, aspect or climate;
- (b) in relation to land in England or Wales in respect of which the Scottish Ministers are the appropriate authority the land shown coloured pink on the designated maps for England and Wales and land situated in the Isles of Scilly.

“the 1992 Sheep Regulations” means the Sheep Annual Premium Regulations 1992(16);

“the 1978 Social Security Regulations” means the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978(17);

“specially qualified flock” means a qualified flock—

- (a) in which all or, in the opinion of the appropriate authority, substantially all, of the ewes comprised in the flock are of any hardy breed or hardy cross breed;
- (b) in which the ewes are, in the opinion of the appropriate authority, maintained in three distinct age groups; and
- (c) which,
 - (i) in relation to a production unit situated wholly in Scotland, is maintained or substantially maintained on severely disadvantaged land suitable for use for the maintenance of a hardy breed or hardy cross breed but not sheep of other breeds, or
 - (ii) in relation to a production unit situated wholly in England or Wales (or partly situated in England or in Wales and partly situated in Scotland) is maintained on severally disadvantaged land or on such land and other land used with it.

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

“the 1993 Suckler Cow Regulations” means the Suckler Cow Premium Regulations 1993(18);

“unsuitable supplementary feeding methods” means providing supplementary feed (other than to maintain livestock during abnormal weather conditions) in such a manner as to result in damage to vegetation through excessive trampling or poaching of the land by animals or excessive rutting by vehicles;

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

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

(3) Where in Scotland an agricultural unit consists in part only of land which is disadvantaged land or severely disadvantaged land the land so designated shall not be regarded as disadvantaged land or as the case may be severely disadvantaged land unless in the opinion of the appropriate authority it would be suitable to be dealt with as a separate unit which is capable, having regard to the number of other animals normally grazed on it, of maintaining a regular breeding herd or a qualified flock.

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

(16) S.I. 1992/2677, amended by S.I. 1994/2741, S.I. 1995/2779, S.I. 1996/49 and S.I. 1997/2500.

(17) S.I. 1978/393, to which there are amendments not relevant to these Regulations.

(18) S.I. 1993/1441, amended by S.I. 1994/1528, S.I. 1995/1446, S.I. 1996/1488 and S.I. 1997/249

Payment of compensatory allowances

3.—(1) The appropriate authority may pay in respect of the Scheme Year to any person who maintains breeding cows or ewes on eligible land, a compensatory allowance for each breeding cow and ewe which he owns, or leases under a formal leasing arrangement, throughout the retention period applicable to the animal concerned.

(2) A compensatory allowance may be paid only where the eligible land on which the claimant maintains breeding cows or ewes was included in a valid area aid application submitted in 1999.

Rates of payment

4.—(1) The compensatory allowance for breeding cows shall be paid at the rates set out in Part I of Schedule 1.

(2) The compensatory allowances for ewes shall be paid at the rates set out in Part II of the Schedule.

(3) The total amount of compensatory allowances which may be paid to a claimant shall not exceed the maximum specified in Part III of Schedule 1.

Continued use of eligible land

5.—(1) Subject to paragraph (2) and to regulation 16, a compensatory allowance may be paid to a person only if he has given an undertaking, in such form as the appropriate authority may reasonably require, that he will, for a period of five years from the first payment of a compensatory allowance under these Regulations, the 1996 Regulations or the 1994 Regulations, continue to use eligible land for agricultural purposes.

(2) Paragraph 1 does not apply to a person who is in receipt of a retirement pension at the time when that undertaking requires to be given.

Usual good farming practices

6. A compensatory allowance may be paid only if, in the opinion of the appropriate authority, the claimant applies usual good farming practices on the eligible land on which he maintains breeding cows or ewes.

Provisions with respect to breeding cows

7.—(1) Subject to the following paragraphs of this regulation, the number of breeding cows for which a compensatory allowance may be paid to a claimant who has made a valid claim for a compensatory allowance for breeding cows in respect of the Scheme Year shall be the least of—

- (a) the number of breeding cows included in that claim;
- (b) the number of breeding cows which were owned by the claimant, or leased by him under a formal leasing arrangement, throughout the retention period applicable to breeding cows;
- (c) the number of breeding cows which in the opinion of the appropriate authority is reasonable, having regard to the number of calves produced by the regular breeding herd of which they formed part—
 - (i) in the twelve months preceding the date on which the claim is lodged or,
 - (ii) in the case of a claim accepted as valid pursuant to regulation 11(4), in the twelve months preceding the day on which the claim was received by the appropriate authority, or

- (iii) in the case of a regular breeding herd newly established or re established in the twelve months referred to in sub paragraph (i) or (ii), in such other period as the appropriate authority may determine; or
 - (d) the number of breeding cows which, when added to the number of ewes which are the subject of a claim for compensatory allowance made by the claimant in respect of the Scheme Year, is equivalent to 1.4 livestock units for each hectare of the eligible land which was included in the area aid application made by the claimant in 1999, and was determined by the appropriate authority to be eligible forage area, or which is relevant afforested land.
- (2) A compensatory allowance shall not be paid for any breeding cow the use of which for breeding would not, in the opinion of the appropriate authority, be in accordance with sound husbandry practice.
- (3) Where a claimant uses unsuitable supplementary feeding methods the appropriate authority may in accordance with paragraph (4) reduce or withhold the compensatory allowance for breeding cows otherwise payable to him.
- (4) Where the claimant was not penalised under regulation 4 of the 1996 Regulations for using unsuitable supplementary feeding methods in 1999, the compensatory allowance for breeding cows otherwise payable to him may be reduced by 10%; where the claimant was so penalised in 1999, but not in 1998, the compensatory allowance for breeding cows otherwise payable to him may be reduced by 20%; and where the claimant was so penalised in 1999 and 1998, the compensatory allowance for breeding cows otherwise payable to him may be withheld.
- (5) Where, in the opinion of the appropriate authority, an appreciable quantity of milk has been produced by a regular breeding herd in the period of 12 months immediately preceding the date a claimant lodges, pursuant to regulation 10(1), a claim for a compensatory allowance for any breeding cows in that herd, and that milk has been sold or used for the manufacture of milk products for sale, a compensatory allowance shall be payable for the number of breeding cows comprised in the herd on that date, reduced by such number as appears to the appropriate authority to be the number of breeding cows in the herd required to produce that quantity of milk in that period of twelve months.

Provisions with respect to ewes

8.—(1) Subject to the following paragraph of this regulation, the number of ewes for which a compensatory allowance may be paid to a claimant who has made a valid claim for compensatory allowances for ewes in respect of the Scheme Year shall be the least of—

- (a) the number of ewes included in that claim;
- (b) the number of ewes which were owned by the claimant, or leased by him under a formal leasing arrangement, throughout the retention period applicable to ewes;
- (c) the number of ewes which in the opinion of the appropriate authority is reasonable, having regard to the number of lambs produced by the qualified flock of which they form part in the 12 months preceding the date the claimant's claim is lodged or, in the case of a qualified flock newly established or re established in the Scheme Year, in such shorter period as the appropriate authority may determine; or
- (d) 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;

on which he maintains breeding cows or ewes which was included in a valid area aid application submitted in 1999 and was determined to be forage area by the appropriate authority, or which is relevant afforested land; or

- (e) the number of ewes which, when added to the number of breeding cows which are the subject of a claim for a compensatory allowance made by the claimant in respect of the Scheme Year, is equivalent to 1.4 livestock units for each hectare of the eligible land which was included in the area aid application made by the claimant in 1999, and was determined by the appropriate authority to be eligible forage area, or which is relevant afforested land.
- (2) A compensatory allowance shall not be paid for any ewe the use of which for breeding would not, in the opinion of the appropriate authority, be in accordance with sound husbandry practice.
- (3) Where a claimant uses unsuitable supplementary feeding methods the appropriate authority may, in accordance with paragraph (4) reduce or withhold the compensatory allowance for ewes otherwise payable to him.
- (4) Where the claimant was not penalised under regulation 4 of the 1996 Regulations for using unsuitable supplementary feeding methods in 1999, the compensatory allowance for ewes otherwise payable to him may be reduced by 10%; where the claimant was so penalised in 1999, but not in 1998, the compensatory allowance for ewes otherwise payable to him may be reduced by 20%, and where the claimant was so penalised in 1999 and 1998, the compensatory allowance for ewes otherwise payable to him may be withheld.

Replacement animals

- 9.—(1) Subject to paragraph (2) any breeding cow included in a claim for a compensatory allowance may be replaced before the end of the retention period by another breeding cow or by a female bovine animal which has not yet borne a calf which is in calf on the day of replacement, without calling into question the number of breeding cows which have been owned or leased throughout the retention period.
- (2) A replacement pursuant to paragraph (1) must occur—
- (a) within twenty days of the replaced breeding cow leaving the regular breeding herd of which it formed part; or
 - (b) (if sooner) before the end of the retention period.
- (3) Subject to paragraphs (4) and (5), any ewe included in a claim for a compensatory allowance may be replaced by another ewe or by another female sheep which will be at least one year old by the end of the retention period, without calling into question the number of ewes which have been owned or leased by him throughout that retention period.
- (4) In the case where in accordance with paragraph (3) a ewe or another female sheep replaces a ewe which is a member of a specially qualified flock, the replacement animal must be of a hardy breed or hardy cross breed.
- (5) A replacement pursuant to paragraph (3) must occur—
- (a) within seven days of the replaced ewe leaving the qualified flock of which it formed part; or
 - (b) (if sooner) before the end of the retention period.

Overgrazing

- 10.—(1) Subject to paragraph (4), where in the year preceding the opening date for lodging claims pursuant to regulation 10(1), the appropriate authority formed the opinion that any parcel of land was being overgrazed, it may notify the occupier of the maximum number of breeding cows which may be grazed and maintained on that parcel in the Scheme Year.
- (2) Subject to paragraph (4), where in the year preceding the opening date for lodging claims pursuant to regulation 10(2), the appropriate authority formed the opinion that any parcel of land is being overgrazed, it may notify the occupier of the maximum number of ewes which may be grazed and maintained on that parcel in the Scheme Year.

(3) The maximum numbers referred to in paragraph (1) and (2) shall in such case be determined by taking account of the number of other animals likely to be grazed and maintained on the parcel concerned in the Scheme Year and having regard to such conditions as may be specified in the notification.

(4) The appropriate authority may issue a notification under paragraph (1) or (2) even where there is no evidence that the parcel of land to which it relates is being overgrazed if he has previously made such a notification in respect of that parcel having formed the opinion that it was being overgrazed.

(5) Where the appropriate authority has made a notification under paragraph (1) or (2), no compensatory allowance shall be paid in respect of the Scheme Year for any breeding cows or ewes grazed and maintained in the Scheme Year on the land to which it relates in excess of the maximum number of breeding cows or ewes specified in the notification.

Claims for compensatory allowances

11.—(1) A claim for compensatory allowance for breeding cows in respect of the Scheme Year shall be lodged with the appropriate authority on or after the day on which these Regulations come into force but not later than 20th December 1999.

(2) A claim for compensatory allowance for ewes in respect of the Scheme Year shall be lodged with the appropriate authority on or after the day on which these Regulations come into force, but not later than 4th February 2000.

(3) A claim for compensatory allowance shall be made in such form as the appropriate authority may reasonably require, and no person shall be entitled to make more than one such claim for breeding cows or ewes in respect of the Scheme Year, provided that, where a number of claims for compensatory allowances for breeding cows or ewes are made by persons who have in respect of that year made more than one area aid application but who are regarded as a single farmer within the meaning of Article 1(4) of Council Regulation 3508/92, the claims concerned shall be deemed to be a single claim made by one person for the purposes of this paragraph.

(4) The appropriate authority may accept as valid, claims for a compensatory allowance for breeding cows or ewes in the form referred to in paragraph (3) which are lodged with it before the day these Regulations come into force.

(5) Where the claimant is a producer group within the meaning of point 2 of Article 1 of Council Regulation 3493/90 the claimant shall, in making a claim for a compensatory allowance for ewes under this regulation, observe signature formalities equivalent to those imposed by Article 2(1) of Commission Regulation 2385/91 in relation to the application referred to therein.

Late claims

12.—(1) If a claimant lodges a claim for compensatory allowances in respect of the Scheme Year later than the relevant closing date, the appropriate authority shall reduce, or as the case may be, exclude the claimant from payment of compensatory allowances in accordance with Article 8 of Commission Regulation 3887/92.

(2) In this regulation “the relevant closing date” means 20th December 1999 in the case of a claim for compensatory allowances for breeding cows and 4th February 2000 in the case of a claim for compensatory allowances for ewes.

Movement of animals

13. Before a claimant moves any breeding cow or ewe included in his claim for compensatory allowances from the location given for it in the claim, he shall not notify the appropriate authority in writing of the new location.

Powers of authorised persons

14.—(1) An authorised person may at all reasonable hours and on producing, if so required, some duly authenticated document showing his authority, exercise the powers specified in this regulation for the purposes of—

- (a) carrying out any specified control measure;
- (b) ascertaining whether an offence under regulation 19 has been or is being committed; or
- (c) ensuring that compensatory allowances under these Regulations are paid in proper cases only.

(2) An authorised person may enter any land, other than land used only as a dwelling, which is, or which such person has reasonable cause to believe to be, occupied by a claimant or used by him for grazing breeding cows or ewes for which a claim for compensatory allowance has been made.

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

- (a) inspect and verify the total area of that land, including forage area;
- (b) inspect and count any animals on that land and read the ear tags or other identification marks of any such animals;
- (c) carry out any other activity which is a specified control measure; and
- (d) inspect that land for the purposes of determining whether or not it has been overgrazed or unsuitable supplementary feeding methods have been used on it.

(4) An authorised person entering any land by virtue of this regulation may take with him such other persons acting under his instructions as he considers necessary.

(5) An authorised person may—

- (a) require a claimant or any employee, servant or agent of a claimant to produce any document or other record in his possession or under his control relating to any animals kept or formerly kept by him (in particular any document or record relating to the animals concerned which the claimant is required to retain by virtue of the 1992 Sheep Regulations, the 1993 Suckler Cow Regulations, the 1996 Order or the 1998 Regulations), and to supply such additional information in that person's possession or under his control relating to a claim for a compensatory allowance as the authorised person may reasonably request;
- (b) inspect any document or other record referred to in sub paragraph (a) of this paragraph and, where any such record is kept by means of a computer, have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with that record;
- (c) make such copies of any document or other record referred to in sub paragraph (a) of this paragraph as he may think fit; and
- (d) seize and retain any document or other record referred to in sub paragraph (a) of this paragraph 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

15. A claimant, any employee, servant or agent of a claimant or any person in charge of animals on the land shall give to an authorised person such assistance as the authorised person may reasonably request so as to enable the authorised person to exercise any power conferred by regulation 14 and in particular, in relation to any animal, shall arrange for the collection, penning and securing of such animal, if so requested.

Release from undertaking

16. A claimant is by virtue of this regulation released from the undertaking referred to in regulation 5—

- (a) at the moment he first receives a retirement pension;
- (b) if he is prevented from continuing to discharge that undertaking by reason of any material circumstances beyond his control; or
- (c) if he ceases farming and at least three hectares of his eligible land, or the eligible land used by him for the grazing of animals, continues to be used for agricultural purposes.

Withholding or recovery of compensatory allowance

17.—(1) The appropriate authority may withhold or recover on demand the whole or any part of any compensatory allowance payable or paid to a claimant in respect of the Scheme Year in any of the following circumstances—

- (a) where the claimant fails to comply with the terms of an undertaking given by him pursuant to regulation 5, from which he has not been released by regulation 16;
- (b) where, in the opinion of the appropriate authority, the claimant has failed to apply usual good farming practices on the eligible land on which he maintains breeding cows or ewes;
- (c) where the appropriate authority has issued to the claimant a notification under regulation 10(1) and (2) and is satisfied that a condition specified in that notification has been breached, or that more breeding cows or ewes than the maximum number specified in the notification have been grazed and maintained in the Scheme Year on the parcel of land to which it relates;
- (d) where the claimant, or an employee, servant or agent of the claimant, intentionally obstructs an authorised person, or a person accompanying an authorised person and acting under his instructions, from exercising any power conferred by regulation 14, or fails without reasonable excuse to comply with a requirement made by an authorised person under regulation 14, or a request made by an authorised person when exercising any power conferred by regulation 14.

(2) Where at any time during the Scheme Year the claimant fails to comply with regulation 29(3) and (5) of the 1998 Regulations, the appropriate authority may withhold or recover on demand the whole or any part of any compensatory allowance for breeding cows payable or paid to the claimant in respect of the Scheme Year.

(3) Where at any time during the Scheme Year the claimant fails to comply with Article 4 or, where he is a sheepmeat producer for the purposes of Council Regulation 3493/90, paragraphs (1), (3), (4) or (5) of Article 5 of the 1996 Order, the appropriate authority may withhold or recover on demand the whole or any part of any compensatory allowance for ewes payable or paid to the claimant in respect of the Scheme Year.

(4) If the European Commission shall not approve, in accordance with Article 44(2) of Council Regulation 1257/1999, the payment of the compensatory allowances provided for in these Regulations, or shall approve their payment in part only, the appropriate authority may withhold, or recover on demand, any compensatory allowances payable or paid in respect of the Scheme Year, in full or to the extent that payment is not so approved, as the case may be.

Rate of interest

18. Where the appropriate authority recovers the whole or any part of any compensatory allowance pursuant to regulation 17, unless the sum recovered is paid as a result of its own error,

interest shall be charged thereon 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 payment to recovery.

Offences

19. It shall be an offence for a person—

- (a) intentionally to obstruct an authorised person in the exercise of a power conferred by regulation 14;
- (b) without reasonable excuse, to fail to comply with a requirement made under regulation 14 or a request made under regulation 15; or
- (c) knowingly or recklessly to make a statement or furnish any information which is false or misleading in a material particular where the statement is made or the information is furnished for the purposes of obtaining for himself or any other person the whole or any part of any compensatory allowance.

Penalties

20.—(1) A person guilty of an offence under regulation 19(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 19(c) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Time limit for prosecutions

21.—(1) Proceedings for an offence under regulation 19 may, subject to paragraph (2), be commenced within the period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant proceedings comes to his knowledge.

(2) No such proceedings shall be commenced by virtue of this regulation more than twelve months after the commission of the offence.

(3) For the purpose of this regulation, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

Offences by bodies corporate

22.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

he, as well as the body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) For the purposes of paragraph (1), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of that body corporate.

(3) Where an offence under these Regulations is committed 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 accordingly.

Revocations and saving

23. The Regulations referred to in Schedule 2 to these Regulations are hereby revoked, except to the extent as specified therein.

St Andrew's House,
Edinburgh
18th December 1999

ROSS FINNIE
A member of the Scottish Executive