
STATUTORY INSTRUMENTS

1994 No. 2740

AGRICULTURE

The Hill Livestock (Compensatory Allowances) Regulations 1994

<i>Made</i>	- - - -	<i>20th October 1994</i>
<i>Laid before Parliament</i>		<i>25th October 1994</i>
<i>Coming into force</i>	- -	<i>15th November 1994</i>

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 upon them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Title, extent and commencement

1. These Regulations may be cited as the Hill Livestock (Compensatory Allowances) Regulations 1994, shall extend to Great Britain and shall come into force on 15th November 1994.

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 Minister” means—

- (a) in relation to England, the Minister of Agriculture, Fisheries and Food; and
- (b) in relation to any other part of Great Britain, the Secretary of State;

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

(1) S.I.1972/1811.
(2) 1972 c. 68.

“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) on or before the qualifying day has borne a calf and is capable of lactation; or
- (b) is in the opinion of the appropriate Minister in calf on the qualifying day and has been brought into the herd before that day primarily for the purpose of replacing an animal which has borne a calf and left the herd on or after 1st July 1994;

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

“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⁽³⁾;

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

“Council Regulation 2328/91” means Council Regulation (EEC) No. 2328/91 on improving the efficiency of agricultural structures⁽⁴⁾, as amended by Council Regulation (EEC) No. 870/93⁽⁵⁾, Council Regulation (EEC) No. 1992/93⁽⁶⁾ and Council Regulation (EEC) No. 3669/93⁽⁷⁾;

“designated maps” means—

- (a) in relation to England, the 3 volumes of maps numbered 1 to 3, each such 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;
- (b) in relation to Wales, the 2 volumes of maps numbered 1 and 2, both volumes 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 Welsh Office Agriculture Department at Trawsgoed, Aberystwyth, Dyfed SY23 4HT;
- (c) in relation to Scotland, the 4 maps numbered 1 to 4, each such 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 Office Agriculture and Fisheries Department at Pentland House, 47 Robb’s Loan, Edinburgh EH14 1TW;

“disadvantaged land” means the land shown coloured blue or coloured pink on the designated maps, being land—

- (a) which is, in the opinion of the appropriate Minister, 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 appropriate Minister, restricted in its range by, or by any combination of, soil, relief, aspect or climate;

“ECU” means the unit of account used in legal instruments relating to the common agricultural policy of the European Community as defined in Council Regulation (EEC) No. 3180/78⁽⁸⁾,

⁽³⁾ OJ No. L391, 31.12.92, p.36.

⁽⁴⁾ OJ No. L218, 6.8.91, p.1.

⁽⁵⁾ OJ No. L91, 15.4.93, p.10.

⁽⁶⁾ OJ No. L182, 24.7.93, p.12.

⁽⁷⁾ OJ No. L338, 31.12.93, p.26.

⁽⁸⁾ OJ No. L379, 30.12.78, p.1.

as amended by Council Regulation (EEC) No. 2626/84(9) and Council Regulation (EEC) No. 1971/89(10), 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 in accordance with Article 3(2) of Council Regulation (EEC) No. 3813/92 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy(11) at the agricultural conversion rate applicable on 1st January in the year in respect of which the compensatory allowance is paid;

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

- (a) which is situated in an area included in the list of less-favoured farming areas adopted by the Council of the European Communities under Article 2(2) of Council Directive 75/268/EEC on mountain and hill farming and farming in certain less-favoured areas(12), as amended by Council Directive 80/666/EEC(13) and Council Directive 82/786/EEC(14), which list is contained in Council Directive 84/169/EEC(15), as amended by Commission Decision 91/25/EEC(16); and

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

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

“forage area” has the same meaning as in the second indent of Article 4g(3) of Council Regulation (EEC) No. 805/68 on the common organisation of the market in beef and veal(17), as amended by Council Regulation (EEC) No. 2066/92(18);

“livestock unit” means a unit of measurement of numbers of livestock described in Article 19 of and Annex 1 to Council Regulation 2328/91;

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

“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, and “overgrazed” shall be construed accordingly;

“qualified flock” means a flock of sheep which is kept on eligible land, or on eligible land and other land used with it, and which is, in the opinion of the appropriate Minister—

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

“the qualifying day” means the day of submission of a claim for a compensatory allowance under these Regulations;

“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 is, in the opinion of the appropriate Minister—

- (a) maintained primarily for the purpose of breeding and rearing calves; and
- (b) maintained and managed in accordance with sound husbandry practice;

(9) OJ No. L249, 18.9.84, p.1.

(10) OJ No. L189, 4.7.89, p.1.

(11) OJ No. L387, 31.12.92, p.1.

(12) OJ No. L128, 19.5.75, p.1.

(13) OJ No. L180, 14.7.80, p.34.

(14) OJ No. L327, 24.11.82, p.19.

(15) OJ No. L82, 26.3.84, p.67.

(16) OJ No. L16, 22.1.91, p.25.

(17) OJ No. L148, 28.6.68, p.24 (OJ/SE vol I p.187).

(18) OJ No. L215, 30.7.92, p.49.

“the 1984 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1984(19);

“the 1992 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1992(20);

“the 1993 Regulations” means the Hill Livestock (Compensatory Allowances) Regulations 1993(21);

“relevant afforested land” means land which in the opinion of the appropriate Minister 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 that land under the 1984 Regulations, the Hill Livestock (Compensatory Allowances) Regulations 1979(22) or the Hill Livestock (Compensatory Allowances) Regulations 1975(23) 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 20(1)(f) of the Social Security Contributions and Benefits Act 1992(24), 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 Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978(25);

“Scheme year” means 1995 and each succeeding calendar year;

“severely disadvantaged land” means—

- (a) the land shown coloured pink on the designated maps, being land—
 - (i) which is, in the opinion of the appropriate Minister, 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
 - (ii) whose agricultural production is, in the opinion of the appropriate Minister, severely restricted in its range by, or by any combination of, soil, relief, aspect or climate; or
- (b) land situated in the Isles of Scilly;

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

“specified control measure” means any check which a member State is required to carry out under Article 6 of Commission Regulation 3887/92;

“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.

(2) Where in Scotland any agricultural unit consists in part only of eligible land, that land or any part thereof shall be deemed for the purposes of these Regulations not to be eligible land unless, in the opinion of the appropriate Minister, such land or such part thereof would be suitable to be dealt with as a separate unit which is capable, having regard to the number of other animals normally grazed thereon, of maintaining a regular breeding herd or a qualified flock.

(19) S.I. 1984/2024, amended by S.I. 1985/2075, 1987/2129, 1991/392 and 1991/1439 and revoked, in so far as they applied to Northern Ireland, by S.R. (N.I.) 1987 No. 92 and, in so far as they applied to Great Britain, by S.I. 1992/269.

(20) S.I. 1992/269, amended by S.I. 1993/70 and revoked by S.I. 1993/2631.

(21) S.I. 1993/2631, amended by S.I. 1993/2924 and S.I. 1994/94 and revoked by these Regulations.

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

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

(24) 1992 c. 4.

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

- (3) Any reference in these Regulations to—
- (a) a numbered regulation is a reference to the regulation in these Regulations so numbered; and
 - (b) a numbered paragraph is a reference to the paragraph so numbered in the regulation in which the reference appears.

Compensatory allowances

3.—(1) The appropriate Minister may, in respect of any Scheme year, pay to any person who is on the qualifying day for that year the occupier of eligible land, a compensatory allowance for cattle and sheep owned or leased under a formal leasing arrangement by him on that day, being cattle comprised in a regular breeding herd and sheep comprised in a qualified flock.

(2) A compensatory allowance in respect of any Scheme year shall be paid to an occupier of eligible land only 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 appropriate Minister may require to the effect that he will, for a period of five years from the first payment of a compensatory allowance made under these Regulations, the 1993 Regulations, the 1992 Regulations or the 1984 Regulations, continue to use eligible land for agricultural purposes.

(3) Subject to the following provisions of these Regulations, 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 a rate of 20.3 ECU per cow.

(4) Subject to the following provisions of these Regulations, a compensatory allowance for sheep shall be payable in respect of the number of ewes comprised in a flock on the qualifying day at a rate of 3.045 ECU per ewe.

(5) The total amount of a compensatory allowance which may be paid in respect of any Scheme year—

- (a) to the occupier of severely disadvantaged land, shall not exceed £81.13 or 123 ECU (whichever rate results in the lower payment in sterling) for each hectare of such land which was included in an area aid application made under Commission Regulation 3887/92 in the year preceding that year and was determined by the appropriate Minister to be eligible forage area for the purposes of that Regulation or which is relevant afforested land; or
- (b) to the occupier of disadvantaged land, shall not exceed £60.85 or 123 ECU (whichever rate results in the lower payment in sterling) for each hectare of such land which was included in an area aid application made under Commission Regulation 3887/92 in the year preceding that year and was determined by the appropriate Minister to be eligible forage area for the purposes of that Regulation or which is relevant afforested land.

Provision with respect to cattle

4.—(1) The number of breeding cows in respect of which a compensatory allowance may be paid in relation to any Scheme year shall be the least of—

- (a) the number of breeding cows comprised in the herd on the qualifying day for that Scheme year;
- (b) the number of breeding cows held by the claimant on eligible land, or on eligible land and other land used with it, for a period of four months from the day following the qualifying day for that Scheme year;
- (c) the number of breeding cows which, in the opinion of the appropriate Minister, is reasonable, having regard to the number of calves produced in the twelve months

preceding the qualifying day for that Scheme year or, in the case of a herd newly established or re-established in that year, in such shorter period as the appropriate Minister may determine; or

- (d) the number of breeding cows which, when added to the number of ewes in a qualified flock grazed and maintained on eligible land available to the claimant's herd and, as the case may be, flock in the year preceding that Scheme year (being land which was included in an area aid application made under Commission Regulation 3887/92 in that preceding year and was determined by the appropriate Minister to be eligible forage area for the purposes of that Regulation or is relevant afforested land) is equivalent to 1.4 livestock units per hectare of that eligible land.

(2) A compensatory allowance for cattle shall not be paid in respect of any breeding cow the use of which for breeding would not, in the opinion of the appropriate Minister, be in accordance with sound husbandry practice.

(3) Where in any Scheme year a claimant uses unsuitable supplementary feeding methods the appropriate Minister may reduce or withhold the compensatory allowance for cattle otherwise payable to him in respect of that Scheme year in accordance with paragraph (4).

(4) Where the claimant was not penalised under this regulation for using unsuitable supplementary feeding methods in the preceding Scheme year the compensatory allowance for cattle otherwise payable to him may be reduced by 10%; where the claimant was penalised under this regulation for using unsuitable supplementary feeding methods in the preceding Scheme year but not in the Scheme year preceding that one the compensatory allowance for cattle otherwise payable to him may be reduced by 20%; and where the claimant has been penalised under this regulation for using unsuitable supplementary feeding methods in each of the two preceding Scheme years the compensatory allowance for cattle otherwise payable to him may be withheld.

(5) Where, in the opinion of the appropriate Minister, 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 has been sold or used for the manufacture of milk products for sale, a compensatory allowance shall be payable in relation to the Scheme year relevant 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 appropriate Minister to be the number of cows in the herd required to produce that quantity of milk in that period.

Provisions with respect to sheep

5.—(1) The number of ewes in respect of which a compensatory allowance may be paid in relation to any Scheme year shall be the least of—

- (a) the number of ewes comprised in the flock on the qualifying day for that Scheme year;
- (b) the number of ewes held by the claimant on eligible land, or on eligible land and other land used with it, for a period of four months from the day following the qualifying day for that Scheme year;
- (c) the number of ewes which, in the opinion of the appropriate Minister, is reasonable, having regard to the number of lambs produced in the twelve months preceding the qualifying day for that Scheme year or, in the case of a flock newly established or re-established in that year, in such shorter period as the appropriate Minister may determine;
- (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,

which was included in an area aid application made under Commission Regulation 3887/92 in the year preceding that Scheme year and was determined by the appropriate

Minister to be eligible forage area for the purposes of that Regulation or which is relevant afforested land; or

- (e) the number of ewes which, when added to the number of breeding cows comprised in a regular breeding herd grazed and maintained on eligible land available to the claimant's flock and, as the case may be, herd in the year preceding that Scheme year (being land which was included in an area aid application made under Commission Regulation 3887/92 in that preceding year and was determined by the appropriate Minister to be eligible forage area for the purposes of that Regulation or is relevant afforested land) is equivalent to 1.4 livestock units per hectare of that eligible land.

(2) 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 appropriate Minister, be in accordance with sound husbandry practice.

(3) Where in any Scheme year a claimant uses unsuitable supplementary feeding methods the appropriate Minister may reduce or withhold the compensatory allowance for sheep otherwise payable to him in respect of that Scheme year in accordance with paragraph (4).

(4) Where the claimant was not penalised under this regulation for using unsuitable supplementary feeding methods in the preceding Scheme year the compensatory allowance for sheep otherwise payable to him may be reduced by 10%; where the claimant was penalised under this regulation for using unsuitable supplementary feeding methods in the preceding Scheme year but not in the Scheme year preceding that one the compensatory allowance for sheep otherwise payable to him may be reduced by 20%; and where the claimant has been penalised under this regulation for using unsuitable supplementary feeding methods in each of the two preceding Scheme years the compensatory allowance for sheep otherwise payable to him may be withheld.

Overgrazing

6.—(1) Subject to paragraph (3), where in the year preceding the opening date for lodging claims for compensatory allowances in respect of any given Scheme year the appropriate Minister forms the opinion that any parcel of land is being overgrazed that Minister may notify the occupier of the maximum number of cattle which may be grazed and maintained on that parcel in that Scheme year, which number shall 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 in question and having regard to such conditions as may be specified in the notification.

(2) Subject to paragraph (3), where in the year preceding the opening date for lodging claims for compensatory allowances in respect of any given Scheme year the appropriate Minister forms the opinion that any parcel of land is being overgrazed that Minister may notify the occupier of the maximum number of sheep which may be grazed and maintained on that parcel in that Scheme year, which number shall 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 in question and having regard to such conditions as may be specified in the notification.

(3) The appropriate Minister may in the year preceding the opening date for lodging claims for compensatory allowances in respect of any given Scheme year 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.

(4) Where the appropriate Minister has made a notification under paragraph (1) or (2) no compensatory allowance shall be paid in respect of the Scheme year for which it was issued for any cattle or as the case may be sheep grazed and maintained in that Scheme year on the land to which it relates in excess of the maximum number of such animals specified in it.

Claims for compensatory allowances

7.—(1) A claim for a compensatory allowance in respect of any Scheme year shall be lodged with the appropriate Minister between and including 15th November in the preceding year and 20th February in the Scheme year in respect of which the claim is made.

(2) A claim for a compensatory allowance shall be made in such form as the appropriate Minister may require, and no person shall make more than one such claim in respect of any Scheme year.

Powers of authorised persons

8.—(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 13 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 a herd or flock to which a claim for a compensatory allowance relates.

(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, 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

9. 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 8 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

10. A claimant is by virtue of this regulation released from the undertaking referred to in regulation 3(2)–

- (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 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.

Withholding or recovery of compensatory allowance

11.—(1) Where any person fails to comply with the terms of an undertaking given by him under regulation 3(2), from which he has not been released by virtue of regulation 10, the appropriate Minister shall be entitled to withhold or to recover on demand the whole or any part of any compensatory allowance payable or paid to him.

(2) Where a claimant, or an employee, servant or agent of a claimant, intentionally obstructs an authorised person or a person accompanying such authorised person and acting under his instructions from exercising any power conferred by regulation 8, or fails without reasonable excuse to comply with a requirement made by an authorised person under regulation 8 or a request made by an authorised person when carrying out any such power, the appropriate Minister shall be entitled to withhold or to recover on demand from that claimant the whole or any part of any compensatory allowance payable or paid to him.

(3) Where any person, with a view to obtaining payment to himself or to any other person of a compensatory allowance, makes any statement or furnishes any information which is false or misleading in a material particular, the appropriate Minister shall be entitled to withhold or to recover on demand the whole or any part of any compensatory allowance payable or paid to him or to such other person.

(4) Where the appropriate Minister has made a notification under regulation 6(1) or (2) and is satisfied that–

- (a) any condition specified in that notification has been breached; or
- (b) more breeding cows or as the case may be ewes than the maximum number specified in the notification have been grazed and maintained on the parcel of land to which it relates in the Scheme year for which it was issued,

he may withhold or recover on demand the whole or any part of any compensatory allowance otherwise payable or as the case may be already paid to the recipient of the notification for the Scheme year to which it relates.

Rate of interest

12. Except where the appropriate Minister recovers from any claimant any compensatory allowance or part of any compensatory allowance paid to that claimant as a result of an error of that Minister, for the purpose of Article 14(1) of Commission Regulation 3887/92 interest shall be

charged 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 specified in that Article.

Offences

13. It shall be an offence for a person—

- (a) intentionally to obstruct an authorised person in the exercise of a power conferred by regulation 8;
- (b) without reasonable excuse, to fail to comply with a requirement made under regulation 8 or a request made under regulation 9; 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.

Punishment of offences

14.—(1) A person guilty of an offence under regulation 13(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 13(c) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Time limit for prosecutions

15.—(1) Proceedings for an offence under regulation 13 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.

(5) In relation to proceedings in Scotland, subsection (3) of section 331 of the Criminal Procedure (Scotland) Act 1975(26) (date of commencement of proceedings) shall apply for the purposes of this regulation as it applies for the purposes of that section.

Offences by bodies corporate

16.—(1) Where 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 be liable to be proceeded against and punished accordingly.

(26) 1975 c. 21.

(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 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 accordingly.

Revocation and saving

17. The Hill Livestock (Compensatory Allowances) Regulations 1993, the Hill Livestock (Compensatory Allowances) (Amendment) (No. 2) Regulations 1993(27) and the Hill Livestock (Compensatory Allowances) (Amendment) Regulations 1994(28) are hereby revoked, except in relation to any compensatory allowance paid in respect of the 1994 Scheme year.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 20th October 1994.

L.S.

William Waldegrave
Minister of Agriculture, Fisheries and Food

Hector Monro
Parliamentary Under Secretary of State, Scottish
Office

20th October 1994

(27) S.I. 1993/2924.

(28) S.I. 1994/94.

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 consolidate with amendments the Hill Livestock (Compensatory Allowances) Regulations 1993, as amended. The Regulations extend to Great Britain. They comply with Council Directive [75/268/EEC](#) on mountain and hill farming and farming in certain less-favoured areas, as amended by Council Directive [80/666/EEC](#) and Council Directive [82/786/EEC](#), and with Articles 17 to 19 of Council Regulation (EEC) No. [2328/91](#) on improving the efficiency of agricultural structures, as amended by Council Regulation (EEC) No. [870/93](#), Council Regulation (EEC) No. [1992/93](#) and Council Regulation (EEC) No. [3669/93](#). The Regulations also make provision for the administration and enforcement of provisions for payment of compensatory allowances contained in Commission Regulation (EEC) No. [3887/92](#) laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes.

The Regulations continue to provide for the payment of an annual compensatory allowance for cattle and sheep which are maintained by the occupier of “eligible land” (*regulation 3*). “Eligible land” continues to be defined as land located in a less-favoured farming area which is shown on designated maps and which is “disadvantaged” or “severely disadvantaged” (*regulation 2(1)*); the maps are available for inspection during normal office hours at the addresses specified in the definition of “designated maps” contained in regulation 2(1). The rates of payment of the allowance are as set out in regulation 3.

Apart from minor and drafting amendments, the following changes of substance are also made by these Regulations—

- (a) there is substituted for the existing definition of “the qualifying day” a definition which relates to the day an application for an allowance is made in any given Scheme year (*regulation 2(1)*);
- (b) there is created a revised definition of “breeding cow”, which brings within its scope animals which are regarded as being in calf on the qualifying day (*regulation 2(1)*);
- (c) provision is made for compensatory allowances to be reduced or withheld if the claimant uses unsuitable supplementary feeding methods (*regulations 4(3) and (4) and 5(3) and (4)*);
- (d) the detailed conditions relating to the number of animals in respect of which an allowance may be paid now reflect the requirement (see Article 4 of Commission Regulation (EEC) No. [3887/92](#)) to submit an area aid application containing details of the claimant’s forage area (*regulations 4(1)(d) and 5(1)(d) and (e)*);
- (e) there are removed from the detailed conditions referred to in sub-paragraph (d) of this paragraph those formerly contained in regulations 4(3)(b) and 5(2)(b) of the Hill Livestock (Compensatory Allowances) Regulations 1993 (maintenance of cattle and sheep for specified qualifying period);
- (f) in the detailed conditions referred to in sub-paragraph (d) of this paragraph, the retention periods set out in these Regulations in regulation 4(1)(b) (for cattle) and regulation 5(1)(b) (for sheep) are extended to four months;
- (g) the appropriate Minister is empowered to issue the occupier of land with a notification where he is satisfied that that land is being overgrazed and may do so in any event where the land has already been made subject to such a notification. The notification will specify the maximum number of animals which may be grazed and maintained on that land in the

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next Scheme year, and no allowances will be paid in respect of that Scheme year for any cattle or sheep grazed and maintained on the land in that year in excess of the maximum number specified in the notification(*regulation 6*);

- (h) authorised persons are empowered to inspect land for the purposes of determining whether or not unsuitable supplementary feeding methods have been used on it(*regulation 8(3)(d)*);and
- (i) the appropriate Minister is empowered to withhold or recover allowances where he is satisfied that (despite the issue of a notification under regulation 6) the claimant has permitted overgrazing(*regulation 11(4)*).

A compliance cost assessment has been prepared and has been deposited in the Library of each House of Parliament.