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STATUTORY INSTRUMENTS

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**1995 No. 904**

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

**Citation, extent and commencement**

1. These Regulations may be cited as the Moorland (Livestock Extensification) Regulations 1995, shall extend to England and shall come into force on 18th April 1995.

**Interpretation**

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

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

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

“beneficiary” means—

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

“common land” means land which an applicant has a right to use for the purpose of grazing ewes or relevant livestock by virtue of any right of common;

“compensatory allowance” means the annual compensatory allowance paid under the Hill Livestock (Compensatory Allowances) Regulations 1984(1), the Hill Livestock (Compensatory Allowances) Regulations 1993(2) or the Hill Livestock (Compensatory Allowances) Regulations 1994(3) in respect of sheep;

“eligible moorland” means land which is—

- (a) comprised in a moorland grazing unit on which heather covers more than 25 per cent of the land,
- (b) included in the area coloured pink on any of the maps in the volume of maps marked “Moorland Map of England 1992” and deposited at the offices of the Ministry of Agriculture, Fisheries and Food at Whitehall Place, London SW1A 2HH, and
- (c) not in an environmentally sensitive area designated under section 18 of the Agriculture Act 1986(4);

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

- (a) is the occupier of a production unit containing at least 20 hectares of eligible moorland and has occupied that production unit for a period of at least 12 months, and

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(1) S.I.1984/2024, amended by S.I. 1985/2075, S.I. 1987/2129, S.I. 1991/392 and S.I. 1991/1439, and revoked by S.I. 1992/269.  
(2) S.I. 1993/2631, amended by S.I. 1993/2924 and S.I. 1994/94, and revoked by S.I. 1994/2740.  
(3) S.I. 1994/2740.  
(4) 1986 c. 49; section 18 was amended by S.I. 1994/249. At the date of making these Regulations, no land in the area coloured pink on the “Moorland Map of England 1992” had been so designated.

(b) either has received compensatory allowances for his flock in respect of 1994 and any subsequent year in respect of which such allowances may be paid or has entered into an agreement with the Minister in accordance with the Sheep Pilot Extensification Scheme;

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

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

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

“heather” means common heather (*Calluna vulgaris*), and includes bell heather (*Erica cinerea*), cross-leaved heath (*Erica tetralix*), crowberry (*Empetrum nigrum*), bilberry or whortleberry (*Vaccinium myrtillus*), bog myrtle (*Myrica gale*), western gorse (*Ulex galii*) and other ericaceous dwarf shrub species when growing in association with common heather;

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

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

“livestock unit” means—

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

“the Minister” means the Minister of Agriculture, Fisheries and Food;

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

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

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

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

“participating production unit” means a production unit—

- (a) which contains at least 20 hectares of eligible moorland,
- (b) which on the date of an application has been occupied by the applicant for a period of at least 12 months, and
- (c) in respect of which an undertaking is given to comply with the obligations described in regulation 3(a) to (e);

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

“qualifying date” means—

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

“reference flock” means—

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

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

“Sheep Pilot Extensification Scheme” means the Sheep Scheme referred to in the booklet “Beef and Sheep Pilot Extensification Schemes” reference EXT1 issued by the Ministry of Agriculture, Fisheries and Food, the Department of Agriculture and Fisheries for Scotland, the Welsh Office Agriculture Department and the Department of Agriculture for Northern Ireland<sup>(5)</sup>;

“specified stocking density” means 0.15 livestock units per hectare in winter and 0.23 livestock units per hectare in summer;

“summer” means—

- (a) in respect of land in the counties of Somerset, Devon and Cornwall, the period in any year from 1st April to 31st October inclusive, and
- (b) in respect of all other land in England, the period in any year from 1st March to 30th September inclusive;

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

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

“winter” means—

- (a) in respect of land in the counties of Somerset, Devon and Cornwall, the period from 1st November in any year to 31st March in the next year inclusive, and
- (b) in respect of all other land in England, the period from 1st October in any year to the end of February in the next year inclusive.

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(5) Copies of the booklet are available from the Ministry of Agriculture, Fisheries and Food, Whitehall Place, London SW1A 2HH.

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

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

(4) Any reference in these Regulations—

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

### **Aid for moorland extensification**

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

- (a) to ensure that the stocking density of ewes and relevant livestock on eligible moorland on each participating production unit does not exceed the specified stocking density;
- (b) to use for the purposes of grazing or forage—
  - (i) during the summer, on each participating production unit, an area of land at least equal in size to the largest area used by him for grazing or forage on that unit during the last summer which ended before the date of his application, and
  - (ii) during the winter, on each participating production unit an area of land at least equal in size to the largest area used by him for grazing or forage on that unit during the last winter which ended before the date of his application;
- (c) to observe in relation to each participating production unit the management requirements in the Schedule;
- (d) to manage eligible moorland on each participating production unit in accordance with a management plan or management plans agreed in advance with the Minister;
- (e) to ensure that the numbers of relevant livestock kept on each participating production unit do not exceed the highest respective numbers of them kept there during the last summer and winter which ended before the date of his application;
- (f) where sheep were away wintered from any participating production unit in the last winter which ended before the date of his application, to ensure that in any winter a number of sheep are away wintered not being less than the “minimum number” calculated as follows—

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

where—

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

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

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

- (g) to ensure that the number of ewes kept on his holding does not exceed the reference flock, reduced by 10 or by a larger figure, specified in the undertaking, which will enable the eligible person to comply with the undertaking given by virtue of sub-paragraph (a) above

and will result in significant environmental benefit for an area of at least 20 hectares of eligible moorland;

- (h) to ensure that any reduction in the number of ewes kept on his holding in order to enable him to comply with the undertaking given by virtue of sub-paragraph (a) above in respect of summer is achieved by reducing the number of ewes in his flock.

### **Applications for aid**

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

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

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

### **Restrictions on acceptance of applications**

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

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

compliance with the undertakings proposed in connection with the application will result in significant environmental benefit for an area of at least 20 hectares of eligible moorland.

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

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

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

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

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

### **Applications to increase ewe numbers**

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

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

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

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

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

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

### **Change of occupation**

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

- (a) the beneficiary (or, if he has died, his personal representative) shall within 3 months (or, where the beneficiary has died and a personal representative is not appointed within three months, as soon as is practicable) notify the Minister in writing of the change of occupation, and shall supply to the Minister such information relating to that change of occupation in such form and within such period as the Minister reasonably may determine;
- (b) subject to the provisions of this regulation, the new occupier of that holding or part may give an undertaking to the Minister to comply, for the remainder of the extensification period, with the extensification obligations assumed by the original occupier relating to that holding or part.

(2) The Minister shall not accept an undertaking from a new occupier of a holding or part of a holding to comply with extensification obligations assumed by the original occupier relating to that holding or part where any original participating production unit comprised in that holding has been divided into parts or has ceased to be farmed as a separate unit.

(3) Where there is a change of occupation of part of a holding, or a holding is divided into parts on the death of the beneficiary, the Minister may—

- (a) determine the undertakings which he reasonably believes should be given in respect of each part of the holding so as to ensure the environmental benefit for which undertakings were given by the original occupier is achieved; and
- (b) apportion the entitlement to payments under these Regulations between the occupiers of the parts of the holding.

(4) A new occupier who gives an undertaking to comply with the extensification obligations assumed by the original occupier shall supply to the Minister such information in such form and within such period following the change of occupation as the Minister reasonably may require.

(5) Where the Minister has accepted an undertaking from a new occupier to comply with the extensification obligations undertaken by the original occupier—

- (a) the new occupier shall be deemed to be a beneficiary; and
- (b) his undertaking to comply with those extensification obligations shall be deemed to take effect on the date of the acceptance by the Minister of that undertaking.

(6) Where within 3 months from the date of change of occupation of the whole or any part of a beneficiary’s holding an undertaking has not been given under this regulation to comply with the

extensification obligations assumed by the original occupier in relation to each original participating production unit comprised in that holding (including any undertaking from the original occupier revised to take account of a determination by the Minister under paragraph (3)), the Minister may—

- (a) withhold the whole or any part of any payments due to the original occupier in so far as they relate to any such unit in respect of which an undertaking has not been given; and
- (b) recover from the original occupier or his personal representatives the whole or any part of any payments of aid already made to him in so far as they related to any such unit in respect of which an undertaking has not been given.

(7) Paragraph (6) shall not apply where the change of occupation of a holding or part of a holding is the result of—

- (a) the death of the original occupier, and
  - (i) that original occupier occupied that holding or part as a tenant; and
  - (ii) following the death of that original occupier the tenancy or lease under which he occupied that holding or part was terminated by the landlord;
- (b) the compulsory purchase of that holding or part; or
- (c) the termination of a tenancy following the operation of a notice to quit to which the Agricultural Land Tribunal has consented under section 26(1) of the Agricultural Holdings Act 1986<sup>(6)</sup>, having been satisfied as to any of the matters specified in section 27(3) of that Act, or the termination of a tenancy following the service of a notice to quit stating that the circumstances in Case A, B, G or H of Schedule 3 to that Act apply.

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

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

#### **Amounts of aid and claims**

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

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

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

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

#### **Obligation to permit entry and inspection**

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

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

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(6) 1986 c. 5.

(b) compliance with the extensification obligations.

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

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

### **Withholding and recovery of aid and termination**

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

(2) Where a beneficiary—

- (a) fails to comply with any of the extensification obligations; or
- (b) fails without reasonable excuse to permit entry or inspection by an authorised person or to render all reasonable assistance to such authorised person as required by regulation 9;

the Minister may withhold the whole or any part of any aid payable to that beneficiary, and may recover the whole or any part of any aid already paid to him.

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

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

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

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

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

### **False statements**

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



22nd March 1995

*Howe*  
Parliamentary Secretary, Ministry of Agriculture,  
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