
STATUTORY INSTRUMENTS

2001 No. 864

AGRICULTURE

The Extensification Payment Regulations 2001

<i>Made</i>	- - - -	<i>9th March 2001</i>
<i>Laid before Parliament</i>		<i>9th March 2001</i>
<i>Coming into force</i>	- -	<i>1st April 2001</i>

The Minister of Agriculture, Fisheries and Food and the National Assembly for Wales, being designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy of the European Community, acting jointly in exercise of the powers conferred on them by virtue of the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Title and commencement

1. These Regulations may be cited as the Extensification Payment Regulations 2001 and shall come into force on 1st April 2001.

Interpretation

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

“the appropriate authority” means—

- (a) where the Minister is the relevant competent authority in relation to the holding in question, the Minister; and
- (b) where the National Assembly is the relevant competent authority in relation to the holding in question, the National Assembly;

(1) The power of the Minister of Agriculture, Fisheries and Food to make, as a Minister designated by virtue of S.I.1972/1811 in relation to the common agricultural policy of the European Community, regulations which extend to Scotland remains exercisable by virtue of section 57(1) of the Scotland Act 1998 (1998 c. 46). The Minister’s power to make, as a Minister so designated, regulations which extend to Wales is confirmed by article 3(4) of the European Communities (Designation) (No. 3) Order 1999 (S.I. 1999/2788). The power of the National Assembly for Wales, being designated by virtue of S.I. 1999/2788 in relation to the common agricultural policy of the European Community, to make regulations in respect of an agricultural activity undertaken anywhere in the United Kingdom on a farm or group of farms which includes a parcel of land situated in Wales is exercisable by virtue of article 3(3) of, and Schedule 2(b) to, that Order, whilst the power of the National Assembly to make regulations jointly with the Minister of Agriculture, Fisheries and Food is conferred by article 3(4) of that Order.

(2) 1972 c. 68.

“authorised person” means a person who is authorised by an authorising body, either generally or specially, to act, subject to regulation 14, in matters arising under these Regulations, whether or not he is an officer of that authorising body;

“authorising body”, in relation to an authorised person, means the appropriate authority;

“beef special premium” means the special premium for male bovine animals provided for in Article 4 of Council Regulation 1254/1999;

“bovine animal” means an animal of the domestic bovine species;

“cattle passport” means, in relation to a bovine animal—

- (a) to which the Cattle Passports Order 1996⁽³⁾ applied, a cattle passport as defined in article 2(2) of that Order;
- (b) to which Article 6(1) of Council Regulation 820/97 applied, a valid cattle passport issued pursuant to that Article; and
- (c) to which Article 6(1) of Regulation 1760/2000 applies, a valid cattle passport issued pursuant to that Article;

“census date” means a date determined by the appropriate authority pursuant to the first subparagraph of Article 32(3) of Commission Regulation 2342/1999, as the date on which bovine animals on claimants' holdings are to be counted in accordance with the third subparagraph of the said Article 32(3);

“census declaration” means a declaration of the number of bovine animals of six months of age or more on a claimant’s holding on a census date, made by that claimant pursuant to the first indent of the third subparagraph of Article 32(3) of Commission Regulation 2342/1999;

“claim” means an indication, given in accordance with Article 32(1) of Commission Regulation 2342/1999, that a producer wishes to participate in the extensification payment scheme and “claimed”, in relation to an extensification payment, shall be interpreted accordingly;

“claimant” means a producer who submits a claim;

“claimant’s document” means any of the following documents or records, whether in writing or kept by means of a computer—

- (a) any cattle passport or other approved identification;
- (b) any national administrative document, as defined in regulation 2(1) of the Beef Special Premium Regulations 1996⁽⁴⁾;
- (c) any register kept in compliance with Article 7(1) and (4) of Regulation 1760/2000;
- (d) any record made under article 5 of the Bovine Animals (Records, Identification and Movement) Order 1995⁽⁵⁾;
- (e) any record made under article 9 of the Bovine Animals (Identification, Marking and Breeding Records) Order 1990⁽⁶⁾; and
- (f) any book, register (other than a register referred to in subparagraph (c) of this definition), bill, invoice, account, receipt, certificate, voucher, correspondence or other document or record relating to a bovine animal;

⁽³⁾ S.I. 1996/1686, revoked by S.I. 1998/871.

⁽⁴⁾ S.I. 1996/3241, amended by S.I. 1999/1179.

⁽⁵⁾ S.I. 1995/12, partially revoked by S.I. 1998/871.

⁽⁶⁾ S.I. 1990/1867, revoked by S.I. 1995/12.

“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(7);

“Commission Regulation 2342/1999” means Commission Regulation (EC) No. 2342/1999 laying down detailed rules for the application of Council Regulation (EC) No. 1254/1999 on the common organisation of the market in beef and veal as regards premium schemes(8) (as amended by Commission Regulation (EC) No. 1042/2000(9), Commission Regulation (EC) No. 1900/2000(10), Commission Regulation (EC) No. 2733/2000(11) and Commission Regulation (EC) No. 192/2001(12));

“the Community rules” means the rules concerning the extensification payment laid down in Articles 12, 13, 21 and 23 of Council Regulation 1254/1999 and Chapter IV of Commission Regulation 2342/1999;

“Council Regulation 820/97” means Council Regulation (EC) No. 820/97 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products(13);

“Council Regulation 1254/1999” means Council Regulation (EC) No. 1254/1999 on the common organisation of the market in beef and veal(14);

“extensification payment” means the extensification payment granted, for each beef special premium and suckler cow premium granted, to producers who comply with certain stocking density requirements, which is provided for in Article 13 of Council Regulation 1254/1999;

“holding” means all the production units managed by a producer situated within the United Kingdom;

“the IACS Regulations” means the Integrated Administration and Control System Regulations 1993(15);

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

“the National Assembly” means the National Assembly for Wales;

“officer” means a director, manager, secretary or other similar officer of a claimant which is a body corporate, or any person who purports to act in any such capacity;

“other approved identification” means approved identification required by article 4(1) of the Bovine Animals (Identification, Marking and Breeding Records) Order 1990;

“producer” has the same meaning as in Chapter 1 of Title I of Council Regulation 1254/1999;

“Regulation 1760/2000” means Regulation (EC) No. 1760/2000 of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and requiring the labelling of beef and beef products and repealing Council Regulation (EC) No. 820/97(16);

“relevant competent authority” has the same meaning as in the IACS Regulations;

“the simplified scheme” means the system of checking compliance with the stocking density requirements laid down in Article 13(2) of Council Regulation 1254/1999 on the basis of a

(7) OJ No. L391, 31.12.92, p. 36, as last amended by Commission Regulation (EC) No. 2721/2000 (OJ No. L314, 14.12.2000, p. 8).

(8) OJ No. L281, 4.11.1999, p. 30.

(9) OJ No. L118, 19.5.2000, p. 4.

(10) OJ No. L228, 8.9.2000, p. 25.

(11) OJ No. L316, 15.12.2000, p. 44.

(12) OJ No. L29, 31.1.2001, p. 27.

(13) OJ No. L117, 7.5.1997, p. 1, repealed by Regulation (EC) No. 1760/2000 of the European Parliament and of the Council (OJ No. L204, 11.8.2000, p. 1).

(14) OJ No. L160, 26.6.1999, p. 21.

(15) S.I. 1993/1317, amended by S.I. 1994/1134, 1997/1148, 1999/1820 and 2000/2573.

(16) OJ No. L204, 11.8.2000, p. 1.

claimant's declaration and undertaking, which is provided for in Article 32(4) of Commission Regulation 2342/1999;

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

“the standard scheme” means the system of checking compliance with the stocking density requirements laid down in Article 13(2) of Council Regulation 1254/1999 by counting bovine animals on census dates, which is provided for in Article 32(3) of Commission Regulation 2342/1999; and

“suckler cow premium” means the premium for maintaining suckler cows provided for in Articles 6 to 10 of Council Regulation 1254/1999.

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

Application

3.—(1) These Regulations shall apply to claimants, and in relation to the holdings of such claimants, to the specified extent.

(2) For the purposes of paragraph (1), “the specified extent”, in relation to a claimant, is the extent to which the appropriate authority is the relevant competent authority in relation to his holding for the purposes of the IACS Regulations.

Choice of scheme

4. A claimant may, when making a claim, choose for the calendar year in question the simplified scheme, instead of the standard scheme.

Submission of census declarations

5. No extensification payment shall be granted in respect of a calendar year to a claimant who has chosen the standard scheme for that year, unless the claimant has submitted to the appropriate authority within the period of two months from the end of that year, a census declaration for every census date in that year.

Supporting information

6.—(1) A claimant shall, at the request of the appropriate authority, supply to the appropriate authority such information and such documents as the appropriate authority may reasonably require for the purpose of determining whether the claimant qualifies for an extensification payment.

(2) Where the appropriate authority requires such information or documents, the claimant shall supply the appropriate authority with it or them within such period as the appropriate authority reasonably may determine.

Pasture land

7. For the purposes of Article 13(3)(c) of Council Regulation 1254/1999 (which requires that a claimant's forage area consist of at least fifty per cent of pasture land), pasture land shall mean grassland, including rough grazing, which, following the local farming practices, is recognised as being destined for grazing bovine animals or sheep or both.

Withholding and recovery of extensification payments

8. The appropriate authority may withhold, or recover on demand, the whole or any part of any extensification payment claimed from or granted by him or it in any of the following circumstances—

- (a) where the grant of an extensification payment to the claimant in question would not, or does not, comply with the Community rules;
- (b) where the claimant in question has complied with a stocking density requirement laid down in Article 13(2) of Council Regulation 1254/1999 only by removing bovine animals from his holding otherwise than in accordance with normal husbandry practice;
- (c) where, pursuant to regulation 11(4) of the Beef Special Premium Regulations 1996⁽¹⁷⁾ or regulation 3A(4) of the Suckler Cow Premium Regulations 1993⁽¹⁸⁾ (which prescribe penalties for overgrazing land), the appropriate authority withholds or recovers from the claimant in question any beef special premium or suckler cow premium;
- (d) where, pursuant to regulation 12 of the Beef Special Premium Regulations 1996 or regulation 3B of the Suckler Cow Premium Regulations 1993 (which prescribe penalties for using unsuitable supplementary feeding methods), the appropriate authority reduces or withholds the amount of beef special premium or suckler cow premium otherwise payable to the claimant in question;
- (e) where the claimant in question, or an officer, employee, servant or agent of that claimant, intentionally obstructs an authorised person, or a person accompanying an authorised person and acting under his instructions, from exercising any power conferred by regulations 11 or 12, or fails without reasonable excuse to comply with a requirement made by an authorised person under regulation 12, or with a request made by an authorised person under regulation 13;
- (f) where the claimant in question has failed to supply the information or documents required by the appropriate authority pursuant to regulation 6, or has failed to supply it or them within the required period;
- (g) where the claimant in question fails, in the reasonable opinion of the appropriate authority, to keep any claimant's document in a form which is accurate and up to date; and
- (h) where the claimant in question, when so requested by an authorised person requiring information pursuant to regulation 12(a), is unable to demonstrate that he can ascertain the number of bovine animals of six months of age or more on his holding on any day of the calendar year for which an extensification payment has been or will be granted.

Rate of interest

9. Where the appropriate authority recovers the whole or any part of any extensification payment pursuant to regulation 8, he or it, as the case may be, shall, unless the sum recovered was paid as a result of his or its own error, be entitled in addition to charge and recover on demand interest on the sum recovered at the rate of one per cent above the sterling three months London Interbank Offered Rate on a day-to-day basis for the period from payment to recovery.

Exercise of powers by authorised persons

10. An authorised person may at all reasonable hours and on producing, if so required, some duly authenticated document showing his authority, exercise the powers conferred by regulations 11 and 12 for the purposes of—

- (a) carrying out any specified control measure; or

⁽¹⁷⁾ S.I. 1996/3241, amended by S.I. 1999/1179.

⁽¹⁸⁾ S.I. 1993/1441, amended by S.I. 1994/1528, 1995/15, 1995/1446, 1996/1488, 1997/249.

- (b) ascertaining whether an offence under regulation 15 has been or is being committed; or
- (c) ensuring that an extensification payment has been or will be granted only in accordance with the Community rules.

Powers of entry and inspection

11.—(1) An authorised person may enter any land, other than land used only as a dwelling, which is, or which he reasonably believes to be, occupied by a claimant or used by him for keeping bovine animals.

- (2) An authorised person who has entered any land by virtue of this regulation may—
 - (a) inspect and verify the area of the land or any part thereof;
 - (b) inspect and count any bovine animals on the land and read their ear tags or other identification marks;
 - (c) inspect and count any sheep and goats on the land; and
 - (d) carry out any other activity which is a specified control measure.

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

Powers in relation to documents

- 12.** An authorised person may—
- (a) require a claimant or any officer, employee, servant or agent of a claimant to produce any claimant's document in his possession or under his control and to supply such additional information in that person's possession or under his control relating to a claim as the authorised person may reasonably request;
 - (b) examine any claimant's document referred to in sub-paragraph (a) and, where it 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 claimant's document;
 - (c) make such copies of any claimant's document referred to in sub-paragraph (a) as he may think fit; and
 - (d) seize and retain any claimant's document referred to in sub-paragraph (a) which he has reason to believe may be required as evidence in proceedings under these Regulations and, where any such claimant's document 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

13. A claimant, any officer, employee, servant or agent of a claimant and any person in charge of animals on land entered pursuant to regulation 11 shall render an authorised person such assistance as he may reasonably request so as to enable him to exercise any power conferred by regulation 11 or 12 and in particular, in relation to any bovine animal, sheep or goat, shall arrange for the penning and securing of such animal if so requested.

Limits on powers of authorised persons

14. An authorised person authorised by the appropriate authority may exercise the powers conferred by regulations 11 and 12, and act otherwise in matters arising under these Regulations, in relation to a claimant's holding only to the extent that his authorising body is the relevant competent authority in relation to that holding for the purposes of the IACS Regulations.

Offences

15. It shall be an offence for a person—

- (a) intentionally to obstruct an authorised person in the exercise of a power conferred by regulation 11 or 12;
- (b) without reasonable excuse, to fail to comply with a requirement made under regulation 12 or a request made under regulation 13;
- (c) knowingly or recklessly to submit a census declaration which is false or misleading in a material particular; or
- (d) 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 purpose of obtaining for himself or any other person the grant of an extensification payment.

Penalties

16.—(1) A person guilty of an offence under regulation 15(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 15(c) or (d) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Time limit for prosecutions

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

18.—(1) Where a body corporate is guilty of an offence under regulation 15, 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, an officer of the body corporate, 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), “officer”, 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 regulation 15 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 shall be liable to be proceeded against and punished accordingly.

9th March 2001

Joyce Quin
Minister of State, Ministry of Agriculture,
Fisheries and Food

Signed on behalf of the National Assembly for Wales

27th February 2001

D. Elis Thomas
The Presiding Officer of the National Assembly

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st April 2001, lay down implementing measures for the extensification payment scheme introduced by Article 13 of Council Regulation (EC) No. 1254/1999 on the common organisation of the market in beef and veal (OJ No. L160, 26.6.1999, p. 21) for beef producers who comply with certain stocking density requirements.

The Regulations prescribe rules for the administration of the scheme in relation to—

- (a) holdings situated wholly in England, and also holdings situated partly in England and partly elsewhere in the United Kingdom, where the Minister of Agriculture, Fisheries and Food (“the Minister”) is responsible for processing the farmer’s claim for extensification payments; and
- (b) holdings situated wholly in Wales, and also holdings situated partly in Wales and partly elsewhere in the United Kingdom, where the National Assembly for Wales (“the National Assembly”) is responsible for processing such a claim,

(regulations 4 to 9). They also lay down enforcement provisions applicable where the Minister or the National Assembly has such responsibility (regulations 10 to 18).

The rules relating to administration provide for the two Community methods of checking stocking density (regulations 4 and 5), require producers to supply information in support of their claims (regulation 6), define “pasture land” for the purposes of the scheme (regulation 7) and provide for withholding or recovery of extensification payments where there is a breach of the rules of the scheme (regulations 8 and 9).

The enforcement provisions confer powers of entry, inspection and collection of evidence on authorised persons (regulations 10 to 13). These include the powers required under Article 6 of Commission Regulation (EC) No. 3887/92 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes (OJ No. L391, 31.12.92, p. 36, as last amended by Commission Regulation (EC) No. 2721/2000 (OJ No. L314, 14.12.2000, p. 8)). Regulations 15 to 18 deal with offences and penalties.

No Regulatory Impact Assessment has been prepared in respect of these Regulations.