SCOTTISH STATUTORY INSTRUMENTS

2001 No. 225

AGRICULTURE

The Suckler Cow Premium (Scotland) Regulations 2001

Made - - - -	*8th June 2001*
Laid before the Scottish Parliament - - - -	*8th June 2001*
Coming into force - -	*1st July 2001*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Suckler Cow Premium Regulations 2001 and shall come into force on 1st July 2001.

Interpretation

2.—(1) In these Regulations–

"applicant" means a producer who has applied for premium;

"authorised person" means a person (whether or not an officer of the Scottish Ministers) who is authorised by the Scottish Ministers, either generally or specifically, to act in matters arising 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(**2**) (as amended by Commission Regulation (EC) No. 229/95(**3**) Commission Regulation (EC) No. 1648/95(**4**), Commission Regulation (EC) No. 2015/95(**5**), Commission Regulation (EC) No. 1678/98(**6**), Commission Regulation (EC)

(**1**) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.
(**2**) O.J. No. L 391, 31.12.92, p.36.
(**3**) O.J. No. L 27, 4.2.95, p.3.
(**4**) O.J. No. L 156, 7.7.95, p.27.
(**5**) O.J. No. L 197, 22.8.95, p.2.
(**6**) O.J. No. L 212, 30.7.98, p.23.

No. 2801/99(**7**), Commission Regulation (EC) No. 2721/2000(**8**) and Commission Regulation (EC) No. 882/2001(**9**));

"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(**10**) (as amended by Commission Regulation (EC) No. 1042/2000(**11**), Commission Regulation (EC) No. 1900/2000(**12**), Commission Regulation (EC) No. 2733/2000(**13**) and Commission Regulation (EC) No. 192/2001(**14**));

"Council Regulation 3508/92" means Council Regulation (EEC) No 3508/92 establishing an integrated administration and control system for certain Community aid schemes (as amended)(**15**);

"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(**16**);

"Council Regulation 1254/1999" means Council Regulation (EC) No 1254/1999 on the common organisation of the market in beef and veal(**17**);

"electronic communication" has the same meaning as in the Electronic Communications Act 2000(**18**);

"forage area" has the same meaning as in Article 12(2)(b) of Council Regulation 1254/1999;

"holding" has the same meaning as in Article 3(b) of Council Regulation 1254/1999;

"the IACS Regulations" means the Integrated Administration and Control System Regulations 1993(**19**);

"livestock unit" means the unit of measurement used to establish the stocking density of a holding, and calculated in accordance with Article 12 of, and Annex III to, Council Regulation 1254/1999;

"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;

"premium" means the premium for maintaining suckler cows and heifers which is payable under Article 6 of Council Regulation 1254/1999;

"premium animal" means, in respect of a particular scheme year, a suckler cow or heifer in respect of which an application for premium has been or will be made;

"producer" has the same meaning as in Article 3(a) 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

(**7**) O.J. No. L 340, 31.12.99, p.29.
(**8**) O.J. No. L 314, 14.12.00, p.8
(**9**) O.J. No. L 123, 4.5.01, p.20.
(**10**) O.J. No. L 281, 4.11.99, p.30.
(**11**) O.J. No. L 118, 19.5.00, p.4.
(**12**) O.J. No. L 228, 8.9.00, p.25.
(**13**) O.J. No. L 316, 15.12.00, p.44.
(**14**) O.J. No. L 29, 31.1.01, p.27.
(**15**) O.J. No. L 355, 5.12.92, p.1, as last amended by Commission Regulation (EC) No. 1593/2000 (O.J. No. L 182, 21.7.00, p.4).
(**16**) O.J. No. L 117, 7.5.97, p.1, repealed by Regulation (EC) No. 1760/2000 of the European Parliament and of the Council (O.J. No. L.204, 11.8.00, p.1).
(**17**) O.J. No. L 160, 26.6.99, p. 21.
(**18**) 2000 c. 7.
(**19**) S.I. 1993/1317 as amended by S.I. 1994/1134, 1997/1148, 1999/1820 and 2000/2573.

animals and requiring the labelling of beef and beef products and repealing Council Regulation (EC) No, 820/97(**20**);

"relevant competent authority" has the same meaning as in regulation 2A of the IACS Regulations(**21**);

"retention period" means the retention period for premium animals referred to in Article 6(2) of Council Regulation 1254/1999 and starting as indicated in Article 16 of Commission Regulation 2342/1999;

"scheme year" means any calendar year in respect of which premium may be paid and includes any part of a retention period in relation to an application for premium in respect of a particular calendar year which falls within the following calendar year;

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

"specified record" means any record which an applicant is required (or has been required) to retain by virtue of–

(a) regulation 7(1);

(b) Article 9(1) of the Bovine Animals (Identification, Marking and Breeding Records) Order 1990(**22**);

(c) Article 5(1) of the Bovine Animals (Records, Identification and Movement) Order 1995(**23**);

(d) Articles 7(1) and 7(4) of Council Regulation (EC) No 820/97 and the Cattle Identification (Enforcement) Regulations 1997(**24**);

(e) Articles 7(1) and 7(4) of Council Regulation (EC) No 820/97 and the Cattle Identification Regulations 1998(**25**);

(f) Articles 7(1) and 7(4) of Regulation (EC) No 1760/2000 and the Cattle Identification Regulations 1998; or

(g) regulation 5 of the Cattle (Identification of Older Animals) (Scotland) Regulations 2001(**26**); and

"unsuitable supplementary feeding methods" means provision of 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 land by animals or excessive rutting by vehicles.

(2) Other expressions used in these Regulations have, in so far as the context allows the same meanings as in Council Regulation 1254/1999, Commission Regulation 2342/1999 and Commission Regulation 3887/92.

(3) In these Regulations any reference to anything done in writing or produced in written form includes a reference to an electronic communication which has been recorded and is consequently capable of being reproduced.

(4) Any reference in these Regulations to a numbered regulation or paragraph is a reference to the regulation or paragraph of the regulation so numbered in these Regulations .

(**20**) O.J. No. L 204, 11.8.00, p.1.
(**21**) Regulation 2A was inserted by S.I. 2000/2573.
(**22**) S.I. 1990/1867, as amended by S.I. 1993/503 and revoked by S.I. 1995/12.
(**23**) S.I. 1995/12, partially revoked by S.I.1998/871.
(**24**) S.I. 1997/1901, revoked by S.I. 1998/871.
(**25**) S.I. 1998/871, as amended by S.I. 1998/1796, 1998/2969 and 1999/1339.
(**26**) S.S.I 2001/1.

Application

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

(2) For the purposes of paragraph (1) above, "the specified extent", in relation to an applicant, is the extent to which the Scottish Ministers are the relevant competent authority (within the meaning of the IACS Regulations) in relation to the holding of that applicant for the purposes of the IACS Regulations.

Applications for premium etc.

4.—(1) For the purpose of Article 6(2)(b) of Council Regulation 1254/1999, the total individual reference quantity which must not be exceeded shall be 180,000 kilograms of milk or milk products.

(2) For the purpose of Article 30(2) of Commission Regulation 2342/1999, the period in each calendar year during which an application for premium may be submitted shall be the period from and including 1st July to and including 6th December in that calendar year.

(3) A producer shall not be entitled to submit more than one application for premium during any one calendar year.

(4) Where, in respect of any particular calendar year, a number of applications for premium are submitted by persons who have in respect of that year made more than one area aid application under Article 6 of Council Regulation (EEC) No 3508/92 but who are regarded as a single farmer within the meaning of Article 1(4) of that Regulation, the applications concerned shall be deemed to be a single application made by one producer for the purposes of paragraph (3).

(5) Where any additional payment provided for by–

(a) Article 1 of Council Regulation (EC) No. 2443/96 providing for additional measures for direct support of producers' incomes or for the beef and veal sector(**27**); or

(b) Article 14 of Council Regulation 1254/1999,

is made to a successful applicant, then–

(i) the applicant shall be deemed to have applied for that payment under this regulation in the like manner that the applicant applied for the premium concerned;

(ii) the application the applicant is deemed to have made as aforesaid shall for the purposes of paragraph (3) be regarded as the same as the application made by that person and which attracted that additional payment; and

(iii) the additional payment shall for the purposes of regulations 5 to 15 be regarded as a payment of that premium.

Overgrazing

5.—(1) Subject to paragraph (3), where, in the year preceding the opening date for submitting claims for premium in respect of any given scheme year, the Scottish Ministers are of the opinion that any parcel of land is being overgrazed, they may serve on the occupier a written notice specifying the maximum number of animals which may be grazed and maintained on that parcel in that scheme year.

(2) The maximum number referred to in paragraph (1) shall be determined by taking into account the number of other animals (expressed in terms of livestock units) likely to be grazed and maintained on the parcel of land concerned in the scheme year in question and having regard to such conditions as may be specified in the notice referred to in paragraph (1).

(**27**) O.J. No. L 333, 21.12.96, p.2.

(3) Where the Scottish Ministers have previously served a notice under paragraph (1) or any of the provisions specified in paragraph (6) in relation to a parcel of land, they may serve a further notice under paragraph (1) in relation thereto without having formed the opinion that it is being overgrazed.

(4) Where the Scottish Ministers have served a notice in relation to a parcel of land under this regulation or any of the provisions specified in paragraph (6), no premium shall be paid in respect of the scheme year for which the notice was issued on any number of premium animals grazed and maintained in that scheme year on the parcel of land to which it relates in excess of the maximum number of such animals specified in the notice.

(5) Where the Scottish Ministers have issued a notification under paragraph (1) and are satisfied that –

(a) any condition specified in the notice has been breached; or

(b) more premium animals than the maximum number specified in the notice have been grazed and maintained on the parcel of land to which the notice relates in the scheme year for which the notice was issued,

they may withhold, or may recover on demand as a debt, the whole or any part of the premium otherwise payable or as the case may be already paid to the recipient of the notice for the scheme year to which it relates.

(6) The provisions referred to in paragraphs (3) and (4) are–

(a) regulation 3A of the Suckler Cow Premium Regulations 1993(**28**);

(b) regulation 11 of the Beef Special Premium Scheme Regulations 1996(**29**);and

(c) regulation 3A of the Sheep Annual Premium Regulations 1992(**30**).

Unsuitable supplementary feeding methods

6.—(1) Where, in any scheme year, the applicant uses unsuitable supplementary feeding methods, the Scottish Ministers may–

(a) in accordance with paragraph (2), reduce or withhold the amount of premium otherwise payable to the applicant in respect of that scheme year; or

(b) where premium has already been paid to the applicant in respect of that scheme year, recover any premium so paid as a debt.

(2) Where the applicant was not penalised for using unsuitable supplementary feeding methods under paragraph (1) nor under any of the provisions specified in paragraph (3) in the preceding Scheme year, the amount of premium referred to in paragraph (1) may be reduced by ten per cent; where the applicant was so penalised in the preceding Scheme year, but not in the Scheme year before that, that amount may be reduced by twenty per cent; and where the applicant was so penalised in each of the two preceding Scheme years that amount may be withheld.

(3) The provisions referred to in paragraph (2) are–

(a) regulation 3B of the Suckler Cow Premium Regulations 1993(**31**);

(b) regulation 12 of the Beef Special Premium Scheme Regulations 1996; and

(c) regulation 3B of the Sheep Annual Premium Regulations 1992(**32**).

(**28**) S.I. 1993/1441, as amended by S.I. 1994/1528, 1995/15, 1995/1446, 1996/1488 and 1997/249. Regulation 3A was inserted by SI1994/1528.
(**29**) S.I. 1996/3241, as amended by S.I. 1999/1179.
(**30**) S.I. 1992/2677, as amended by 1994/2741, 1995/2779, 1996/49, 1997/2500, 2000/2573 and 2001/281. Regulation 3A was inserted by S.I. 1994/2741.
(**31**) Regulation 3B was inserted by SI 1994/1528.
(**32**) Regulation 3B was inserted by S.I. 1994/2741.