STATUTORY RULES OF NORTHERN IRELAND

2015 No. 16

AGRICULTURE

The Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2015

Made - - - -	*27th January 2015*
Coming into operation	*3rd February 2015*

The Department of Agriculture and Rural Development is a department designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to the common agricultural policy of the European Union and in relation to matters relating to the promotion of rural development.

The Department of Agriculture and Rural Development makes the following Regulations in exercise of the powers conferred by section 2(2) of that Act.

Annotations:

F1 S.I. 2000/2812 and S.I. 2000/3238 to which there are amendments not relevant to the subject matter of these Regulations

F2 1972 c. 68

Citation and commencement

1. These Regulations may be cited as The Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2015 and shall come into operation on 3rd February 2015.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 [F3] shall apply to these Regulations as it applies to an Act of the Assembly.

(2) In these Regulations—

"the 1994 Regulations" means the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1994 [F4];

"the 1996 Regulations" means the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1996 [F5];

"the 1999 Regulations" means the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1999 [F6];

"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;

"authorised person" means any person who is authorised by the Department, either generally or specifically, to act in relation to matters arising under these Regulations, whether or not he is an officer of the Department;

"beneficiary" means a person who has received payment for less favoured area compensatory allowance;

"claim" means a claim for less favoured area compensatory allowance;

"claimant" means any person who has made a claim for less favoured compensatory allowance;

"claimed forage area" means land which has been entered at column I of the field data sheet in a single application for the year 2014;

"the Commission" means the Commission of the European Union;

"Commission Regulation 1122/2009" means Commission Regulation (EC) No. 1122/2009[F7] laying down detailed rules for the implementation of Council Regulation (EC) No. 73/2009[F8] as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No. 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector;

"common land" means land the grazing of animals on which is shared;

"compensatory allowance", in relation to land situated in Northern Ireland, means either—

(a) any payment made under these Regulations, the Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2001 [F9], the Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2002 [F10], the Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2003 [F11], the Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2004 [F12], the Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2005 [F13], the Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2006 [F14], the Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2007 [F15], the Less Favoured Area Compensatory Allowances (No. 2) Regulations (Northern Ireland) 2007 [F16], the Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2008 [F17], the Less Favoured Area Compensatory Allowances (No. 2) Regulations (Northern Ireland) 2008 [F18], the Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2010 [F19], the Less Favoured Area Compensatory Allowances (No. 2) Regulations (Northern Ireland) 2010 [F20], the Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2011 [F21]; the Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2012 [F22] or the Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2013 [F23]; or

(b) in the case of a compensatory allowance payable in the year 2000 or earlier, any payment made under the Hill Livestock (Compensatory Allowances) Regulations;

"Council Regulation 1257/1999" means Council Regulation (EC) No. 1257/1999[F24] on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations;

"Council Regulation 1698/2005" means Council Regulation (EC) No. 1698/2005[F25] on support for rural development by the European Agricultural Fund for Rural Development (EAFRD);

"cross-border holding" means a holding which is situated partly in Northern Ireland and partly in one or more of England, Scotland or Wales;

"deer" means deer of the Red, Fallow or Sika species managed on a holding enclosed by a deer-proof barrier and kept by way of business for the primary purpose of the production of meat;

"deer-proof barrier" means a barrier which will, to the satisfaction of the Department, and having regard to the character and nature of the land, prevent the entry of deer on to or, as the case may be, the escape of deer from any land;

"the Department" means the Department of Agriculture and Rural Development;

"designated map" means the map marked "Map of less-favoured farming areas in Northern Ireland", dated 8th May 1991, signed by the Secretary of State and deposited at the Offices of the Department at Dundonald House, Upper Newtownards Road, Ballymiscaw, Belfast BT4 3SB;

"disadvantaged land" (except in the expression "severely disadvantaged land") means the land shown coloured blue on the designated map;

"electronic communication" has the same meaning as in the Electronic Communications Act (Northern Ireland) 2001 [F26];

"eligible forage area" means such part of the qualifying forage area that has been entered in a single application at column F under either of the land use codes in column 1 of Schedule 1 and as lies within a less favoured area;

"eligible land" means land within the less favoured area;

"ewe" means any female of the ovine species having lambed at least once or at least one year old;

"forage area" means the area of the holding that was available throughout the calendar year for rearing animals including areas in shared use and areas which were subject to mixed cultivation; it shall not include:

(c) buildings, woods, ponds, paths,

(d) areas used for other crops eligible for Community aid or for permanent crops or horticultural crops,

(e) areas qualifying for the support system laid down for the producers of certain arable crops used for the aid scheme for dried fodder or subject to a national set-aside scheme;

"goat" means any goat (of any species) which is kept by way of business for the primary purpose of the production of milk or fibre;

"heifer" means a female bovine animal from the age of eight months which has not yet calved;

"Hill Livestock (Compensatory Allowances) Regulations" means the 1994 Regulations, the 1996 Regulations or, as the case may be, the 1999 Regulations;

"holding" means all the production units managed by a farmer situated within the territory of the same Member State;

"individual milk quota" means a statement setting out the individual milk quota available to the producer on 31 March preceding the beginning of the 12-month period of application of the surplus levy scheme starting in the calendar year concerned; where this quantity is unknown on the date on which the application is submitted, it shall be notified to the Department at the earliest opportunity;

"less favoured area" means all the land shown coloured blue or pink on the designated map;

"less favoured area compensatory allowance" means the compensatory allowance payable in accordance with these Regulations, Article 36(a)(ii) of Council Regulation 1698/2005, Chapter V of Title II of Council Regulation 1257/1999 and Articles 1 and 3 of Regulation 1310/2013;

"livestock unit" means a unit of measurement of livestock numbers, and each of the following constitutes a single livestock unit—

(f) one suckler cow or a heifer aged over 24 months;

(g) 1.67 heifers aged between 8 months and 24 months;

(h) 6.67 ewes;

(i) 6.67 breeding female goats;

(j) 3.3 breeding female deer aged 27 months and over; or

(k) 5 breeding female deer over 6 months but less than 27 months;

"minimum grazing period" means the seven month period 1st April 2014 to 31st October 2014;

"notional livestock density" means the number of livestock units per hectare of eligible forage area, calculated as a fraction of which the numerator is the number of relevant animals expressed in livestock units and the denominator is the claimant's eligible forage area expressed in hectares;

"qualifying forage area" means the relevant forage area or, in relation to a claimant in relation to whom regulation 7 applies, such part of the relevant forage area as results from the reductions made to the relevant forage area in accordance with that regulation;

"Regulation 1305/2013" means Regulation (EU) No 1305/2013 [F27] of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005;

"Regulation 1310/2013" means Regulation (EU) No 1310/2013 [F28] of the European Parliament and of the Council of 17 December 2013 laying down certain transitional provisions on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), amending Regulation (EU) No 1305/2013 of the European Parliament and of the Council as regards resources and their distribution in respect of year 2014 and amending Council Regulation (EC) No 73/2009 and Regulations (EU) No 1307/2013. (EU) No 1306/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards their application in the year 2014;

"related less favoured area" in relation to a claimant, means all that claimed forage area, excluding less favoured area, in respect of which the Department has been advised by the Scottish Ministers that the claimant is eligible for a related less favoured area allowance;

"related less favoured area allowance" means a compensatory allowance payable in relation to land situated in Scotland in accordance with Articles 36(a)(i) or (ii) of Council Regulation 1698/2005 or Chapter V of Title II of Council Regulation 1257/1999;

"relevant animals" means—

(l) the number of suckler cows, heifers and ewes present on a claimant's holding for at least the minimum grazing period in the year 2014;

(m) the average number of breeding female deer present on a claimant's holding on a number of dates determined by the Department; and

(n) the average number of breeding female goats present on a claimant's holding on a number of dates determined by the Department;

"relevant forage area" means any claimed forage area situated in Northern Ireland;

"severely disadvantaged land" means the land shown coloured pink on the designated map;

"single application" means the application for direct payments in respect of the single payment scheme and other area-related aid schemes;

"suckler cow" means a cow belonging to a meat breed or born of a cross with a meat breed, and belonging to a herd intended for rearing calves for meat production;

(3) 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.

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

(5) A reference in these Regulations to Council Regulation 1698/2005 is a reference to that Regulation as saved by Article 88 of Regulation 1305/2013 and as read with Articles 1 and 3 of Regulation 1310/2013.

Annotations:

F3 1954 c.33 (N.I)

F4 S.R. 1994 No. 417 amended by S.R. 1995 No. 22, S.R. 1995 No. 245, S.R. 1995 No. 404, S.R. 1996 No. 7 and revoked by S.R. 1996 No. 230

F5 S.R. 1996 No. 230 amended by S.R. 1996 No. 498, S.R. 1997 No. 13, S.R. 1997 No. 486, S.R. 1998 No. 34, S.R. 1998 No. 439, S.R. 1999 No. 68 and which cease to apply by virtue of S.R. 1999 No. 497

F6 S.R. 1999 No. 497

F7 O.J. No. L316, 02.12.2009, p. 65 as last amended by Commission Implementing Regulation (EU) No. 666/2012 (O.J. No. L194, 21.07.2012, p. 3)

F8 O.J. No. L130, 31.01.2009, p.16 as last amended by Commission Implementing Regulation (EU) No. 776/2012 (O.J. No. L231, 28.08.2012, p.8)

F9 S.R. 2001 No. 71

F10 S.R. 2002 No. 72

F11 S.R. 2003 No. 162

F12 S.R. 2004 No. 495

F13 S.R. 2005 No. 106

F14 S.R. 2006 No. 52

F15 S.R. 2007 No. 27

F16 S.R. 2007 No. 361

F17 S.R. 2008 No. 34

F18 S.R. 2008 No. 473

F19 S.R. 2010 No. 41

F20 S.R. 2010 No. 418

F21 S.R. 2011 No.429

F22 S.R. 2012 No.456

F23 S.R. 2013 No. 295

F24 O.J. No. L160, 26.06.1999, p.80 as last amended by Council Regulation (EC) No. 1698/2005 (O.J. No. L277, 21.10.2005, p.1)

F25 O.J. No. L277, 21.10.2005, p.1 as last amended by Council Regulation (EC) No. 147/2012 (O.J. No L48, 21.02.2012, p.7)

F26 2001 c.9 (N.I); the definition of "electronic communication" contained in section 4(1) was amended by section 406(1) of, and paragraph 170 of Schedule 17 to, the Communications Act 2003 (c.21)

F27 OJ No L 347, 20.12.2013, p. 487–548

F28 OJ No L 347, 20.12.2013, p. 865–883