STATUTORY RULES OF NORTHERN IRELAND

2001 No. 71

AGRICULTURE

Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2001

Made - - - - 21st February 2001

Coming into operation 6th March 2001

The Department of Agriculture and Rural Development being a Department 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 and in relation to matters relating to the promotion of rural development, in exercise of the powers conferred on it by the said section 2(2) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Less Favoured Area Compensatory Allowances Regulations (Northern Ireland) 2001 and shall come into operation on 6th March 2001.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(2) In these Regulations—

"the 1975 Regulations" means the Hill Livestock (Compensatory Allowances) Regulations 1975(**4**);

"the 1979 Regulations" means the Hill Livestock (Compensatory Allowances) Regulations 1979(**5**);

"the 1984 Regulations" means the Hill Livestock (Compensatory Allowances) Regulations 1984(**6**);

(**1**) S.I. 1972/1811 and S.I. 2000/3238
(**2**) 1972 c. 68
(**3**) 1954 c. 33 (N.I.)
(**4**) S.I. 1975/2210, amended by S.I. 1976/1203, S.I. 1977/1960 and S.I. 1979/941 and revoked by S.I. 1979/1748
(**5**) S.I. 1979/1748, amended by S.I. 1980/2028, S.I. 1981/1843 and S.I. 1982/1886 and revoked by S.I. 1984/2024
(**6**) 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, insofar as they applied to Northern Ireland, by S.R. 1987 No. 92 and, insofar as they applied to Great Britain, by S.I. 1992/269

"the 1994 Regulations" means the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1994(**7**);

"the 1996 Regulations" means the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1996(**8**);

"the 1999 Regulations" means the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1999(**9**);

"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;

"area aid application" has the same meaning as in Article 6 of Council Regulation 3508/1992;

"authorised person" means any person who is authorised by the Department, either generally or specially, 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 entered into an undertaking;

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

"claimed forage area" means land which has been entered as forage area in an area aid application for the year 2000;

"Commission" means the Commission of the European Communities;

"Commission Regulation 1750/1999" means Commission Regulation (EC) No. 1750/1999(**10**) laying down detailed rules for the application of Council Regulation 1257/1999, as amended by Commission Regulation (EC) No. 2075/2000(**11**);

"Commission Regulation 2342/1999" means Commission Regulation (EC) No. 2342/1999(**12**) 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, as last amended by Commission Regulation (EC) No. 1900/2000(**13**);

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

"compensatory allowance" means either—

(a) a less favoured area compensatory allowance; or

(b) in the case of a compensatory allowance payable in the year 2000 or earlier, a compensatory allowance payable in accordance with the Hill Livestock (Compensatory Allowances) Regulations;

"Council Regulation 3508/1992" means Council Regulation (EEC) No. 3508/1992(**14**) establishing an integrated administration and control system for certain Community aid schemes, as last amended by Council Regulation 1593/2000(**15**);

"Council Regulation 1254/1999" means Council Regulation (EC) No. 1254/1999(**16**) on the common organisation of the market in beef and veal;

(**7**) 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
(**8**) 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. 439, S.R. 1999 No. 68 and which cease to apply by virtue of S.R. 1999 No. 497
(**9**) S.R. 1999 No. 497
(**10**) O.J. No. L214, 13.8.1999, p. 31
(**11**) O.J. L246, 30.9.2000, p. 46
(**12**) O.J. L281, 4.11.1999, p. 30
(**13**) O.J. L228, 8.09.2000, p. 25
(**14**) O.J. No. L355, 5.12.92, p. 1
(**15**) O.J. L182, 21.7.2000, p. 4
(**16**) O.J. L160, 26.6.1999, p. 21

"Council Regulation 1257/1999" means Council Regulation (EC) No. 1257/1999(**17**) on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF);

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

"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, Belfast BT4 3SB;

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

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

"eligible land" means land within the less favoured area or relevant afforested land;

"eligible forage area" means such part of the relevant forage area as lies within a less favoured area;

"ewe" means a female sheep which is at least one year old, or has lambed, on 1st January 2001;

"first compensatory allowance" means less favoured area compensatory allowance or, where a compensatory allowance has been paid under the Hill Livestock (Compensatory Allowances) Regulations, the first payment of that allowance;

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

"heifer" has the same meaning as in Article 3 of Council Regulation 1254/1999;

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

"holding" has the same meaning as in Article 1 of Council Regulation 3508/1992;

"individual reference quantity of milk" has the same meaning as in Article 31 of Commission Regulation 2342/1999;

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

"less favoured area compensatory allowance" means the compensatory allowance payable in accordance with regulations 7 and 8 and with Chapter V of Title II of Council Regulation 1257/1999;

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

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

(b) 1.67 heifers aged between 8 months and 24 months; or

(c) 6.67 ewes;

"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;

"relevant afforested land" means land which, in the opinion of the Department, 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 the land under the 1975 Regulations,

(**17**) O.J. No. L160, 26.6.1999, p. 80.
(**18**) 2000 c. 7

the 1979 Regulations or the 1984 Regulations 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 on which such conversion was completed;

"relevant animals" means the suckler cows, heifers and ewes in respect of which a claimant, in the year 2000, applied for suckler cow premium or as the case may be, sheep annual premium;

"relevant forage area" means the claimed forage area or, in relation to a claimant in relation to whom regulation 9 applies, such part of the claimed forage area as results from the deductions made to the relevant forage area in accordance with that regulation;

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

"sheep annual premium" means the premium payable under the Sheep Annual Premium Regulations (Northern Ireland) 1992(**19**);

"suckler cow" shall have the same meaning as in Article 3 of Council Regulation 1254/1999;

"suckler cow premium" means the premium payable under the Suckler Cow Premium Regulations (Northern Ireland) 1993(**20**); and

"undertaking" means an undertaking under regulation 5(*a*).

(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) 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 consequently capable of being reproduced.

Power to make payments

3. Subject to regulation 5, the Department shall make payments of less favoured area compensatory allowance in respect of the year 2001 to any claimant who is eligible under regulation 4 in respect of any eligible forage area.

Eligibility of producers for less favoured area compensatory allowance

4.—(1) Subject to Article 14.2 of Council Regulation 1257/1999 (third indent), and to regulation 5, a claimant shall be eligible for less favoured area compensatory allowance provided—

(a) his claim is made in an area aid application submitted in the year 2000;

(b) an area of at least three hectares of claimed forage area entered in that area aid application lies within a less favoured area; and

(c) subject to paragraph (2), the notional livestock density on the eligible forage area is not less than 0.2 livestock units.

(2) The Department may determine that a notional livestock density of less than 0.2 livestock units is sufficient for the purposes of paragraph (1)(*c*) if it is reasonably satisfied that it is appropriate to do so in all the circumstances of the case, having regard, in particular, to the number of animals other than relevant animals kept on the eligible forage area and any other obligation of the claimant as to the number of animals that may be kept on the land comprising the eligible forage area.

(3) In order to enable it to consider whether to exercise its discretion under paragraph (2), the Department shall be provided with such information as it reasonably may require.

(**19**) S.R. 1992 No. 476 amended by S.R. 1994 No. 404, S.R. 1995 No. 403, S.R. 1996 No. 497, S.R. 1997 No. 485, S.R. 1999 No. 457 and S.R. 2000 No. 301
(**20**) S.R. 1993 No. 280 amended by S.R. 1994 No. 211, S.R. 1995 No. 246, S.R. 1996 No. 229 and S.R. 1997 No. 53

Conditions as to continued use of eligible land

5. Less favoured area compensatory allowance shall not be paid to a claimant unless—

(a) he has given a written undertaking, in such form as the Department may reasonably require, that he will or would, for a period of five years from the date of payment of a first compensatory allowance, continue to use at least three hectares of eligible land for agriculture; and

(b) he is not in breach of that undertaking at the date of payment.

Release from undertaking

6. A claimant is released from the undertaking referred to in regulation 5—

(a) if he is prevented from continuing to discharge that undertaking by reason of any material circumstance beyond his control; or

(b) if he ceases farming and at least three hectares of the eligible land last used by him for the grazing of animals continue to be used for agriculture.

Rates of payment

7. Subject to regulations 8 and 9, payments of less favoured area compensatory allowance in respect of the descriptions of eligible forage area specified in column 1 of the Schedule shall be made—

(a) in relation to the first 350 hectares of eligible forage area in respect of which the claim is made, at the rates specified in column 2 of the Schedule;

(b) in relation to the next 150 hectares of eligible forage area in respect of which the claim is made, at one half of the rates specified in column 2 of the Schedule;

(c) in relation to further hectares of eligible forage area in excess of 500 hectares in respect of which the claim is made, at one quarter of the rates specified in column 2 of the Schedule.

Increments to payment

8.—(1) After calculating the amount payable to each claimant as provided by regulation 7, the Department may, if it thinks fit, increase that amount by a fixed percentage provided that—

(a) such increase does not exceed 20% of that amount; and

(b) the percentage increase is the same for each claimant.

(2) If the amount payable to a claimant by virtue of regulation 7 and paragraph (1) is less than 90% of the compensatory allowance paid to that claimant in respect of the year 2000, he shall be paid, in addition to that sum, such further sum as is necessary to increase the total less favoured area compensatory allowance payable to him to 90% of the compensatory allowance paid to him in respect of that year, or, if less, such proportion of that further sum as relates to the claimed forage area which was entered in his area aid application for that year and which lies within a less favoured area.

Exclusion of forage area

9.—(1) Subject to paragraph (2), if, on 31st March 2000, a claimant had available to him an individual reference quantity of milk, his claimed forage area in Northern Ireland shall be reduced by 1 hectare per 10,000 litres of that quantity for the purposes of determining his relevant forage area.

(2) Where any holding in respect of which a claim has been made is a cross-border holding, the individual reference quantity of milk applicable to that part of the claimant's holding situate in Northern Ireland shall be calculated as follows: