1995 No. 239

AGRICULTURE

Moorland (Livestock Extensification) Regulations (Northern Ireland) 1995

Made	*2nd June 1995*
Coming into operation . .	*10th July 1995*

The Department of Agriculture, being a Department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the common agricultural policy of the European Community, 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 Moorland (Livestock Extensification) Regulations (Northern Ireland) 1995 and shall come into operation on 10th July 1995.

Interpretation

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

(2) In these Regulations—

"application" means an application under regulation 4;

"authorised person" means a person (whether or not an officer of the Department) authorised by the Department 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;

"compensatory allowance" means the annual compensatory allowance paid under the Hill Livestock (Compensatory Allowances)

(**a**) S.I. 1972/1811

(**b**) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.I. 1994/2795 (N.I. 15)

(**c**) 1954 c. 33 (N.I.)

(**d**) S.I. 1984/2024 amended by S.I. 1985/2075 and revoked, insofar as it formed part of the law of Northern Ireland, by S.R. 1987 No. 92

Regulations 1984(**d**), the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1987(**a**), the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1992(**b**), the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1993(**c**) or the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1994(**d**) in respect of sheep;

"the Department" means the Department of Agriculture for Northern Ireland;

"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 Northern Ireland 1992/93" and deposited at the offices of the Department of Agriculture for Northern Ireland, Dundonald House, Upper Newtownards Road, Belfast BT4 3SB;

(*c*) not in an environmentally sensitive area designated under Article 3 of the Agriculture (Environmental Areas) (Northern Ireland) Order 1987(**e**).

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

(*a*) is the occupier of a production unit containing at least 5 hectares of eligible moorland and has occupied that production unit for a period of at least 12 months, and

(*b*) has received compensatory allowances for his flock in respect of 1994 and any subsequent year in respect of which such allowances may be paid;

"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 day before the first day of the first winter after the acceptance by the Department of an application;

"heather" means common heather (*Calluna vulgaris*), and includes bell heather (*Erica cinerea*), cross-leaved heath (*Erica tetralix*), crowberry (*Empetrum nigrum*), bilberry (*Vaccinium myrtillus*), bog myrtle (*Myrica gale*), Cranberry (*Vaccinium oxycoccos*) and other ericaceous

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(**a**) S.R. 1987 No. 92 amended by S.R. 1987 No. 445, S.R. 1990 No. 36, S.R. 1991 No. 58 and S.R. 1991 No. 286, and revoked by S.R. 1992 No. 68

(**b**) S.R. 1992 No. 68 amended by S.R. 1993 No. 16 and revoked with savings by S.R. 1993 No. 449

(**c**) S.R. 1993 No. 449 amended by S.R. 1993 No. 474 and revoked with savings by S.R. 1994 No. 417

(**d**) S.R. 1994 No. 417 amended by S.R. 1995 No. 22

(**e**) S.I. 1987/458 (N.I. 3) amended by S.R. 1994 No. 419. At the date of making these Regulations, no land in the area coloured pink on the "Moorland Map of Northern Ireland 1992/93" had been so designated

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;

"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;

"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 5 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 Northern Ireland 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 the smallest of the following, namely—

(*a*) where an applicant or beneficiary received compensatory allowances in respect of 1994, the number of ewes for which he received the allowances,

(*b*) 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

(*c*) where the Department has notified the applicant of a number of ewes in accordance with paragraph (3), the number of ewes so notified;

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

"specified stocking density" means zero livestock units per hectare in winter and 0.30 livestock units per hectare in summer;

"statutory provision" has the meaning assigned to it by section 1(*f*) of the Interpretation Act (Northern Ireland) 1954;

"summer" means the period between 28th February or, in the case of a leap year, 29th February and 31st October;

"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 the period between 31st October and 28th February, or in the case of a leap year, 29th February.

(3) Where the Department 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 Department may notify the applicant of that number.

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

Aid for moorland extensification

3. Subject to the provisions of these Regulations, the Department 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 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;

(*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 Department;

(*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 paragraph (*a*) and will result in significant environmental benefit for an area of at least 5 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 paragraph (*a*) 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 Department reasonably may require to enable it to decide whether to accept the application.

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

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