1993 No. 449

AGRICULTURE

The Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1993

Made . . . . . 15th November 1993

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 Economic Community, in exercise of the powers conferred upon 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 Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1993.

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—

"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, and "agricultural" shall be construed accordingly;

"applicant" means a person who has applied for a compensatory allowance under these Regulations;

"approved breed" means any hardy breed or cross breed of sheep approved by the Department for the purposes of these Regulations, being a breed or cross breed which is suitable for breeding and rearing on land in respect of which the severity of the permanent natural handicaps affecting the breeding and rearing of sheep on that land is greater than that affecting the breeding and rearing of sheep on severely disadvantaged land generally;

(**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.R. (N.I.) 1984 No. 253

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

"authorised person" means a person (whether or not an officer of the Department) who is authorised by the Department, either generally or specially, to act in matters arising under these Regulations;

"breeding cow" means a female bovine animal, comprised in a regular breeding herd, which is not maintained primarily for the production of milk and which, on or before the qualifying day—

(*a*) has borne a calf and is capable of lactation, or

(*b*) has been brought into the herd primarily for the purpose of replacing an animal which has borne a calf, and is, in the opinion of the Department, suitable for the purpose of bearing a calf before 15th November in the year in respect of which an application for a compensatory allowance is made under these Regulations;

"Commission Regulation" means Commission Regulation (EEC) No. 3887/92 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes(**a**);

"Council Regulation" means Council Regulation (EEC) No. 2328/91(**b**) on improving the efficiency of agricultural structures as amended by Council Regulation (EEC) No. 870/93(**c**);

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

"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" means the land shown coloured blue or coloured pink on the designated map, being land—

(*a*) which is, in the opinion of the Department, inherently suitable for extensive livestock production but not for the production of crops in quantity materially greater than that necessary to feed such livestock as are capable of being maintained on such land, and

(*b*) whose agricultural production is, in the opinion of the Department, restricted in its range by, or by any combination of, soil, relief, aspect or climate;

"ECU" means the unit of account used for the purposes of the common agricultural structures policy of the European Community, and any reference in these Regulations to a specified number of ECU in relation to a compensatory allowance shall be taken to be a reference to the sterling equivalent of that number of ECU converted into sterling at the agricultural exchange rate applicable on the qualifying day in the year in which the compensatory allowance is paid;

"eligible land" means an area of land of not less than three hectares—

(**a**) OJ No. L391, 31.12.92, p. 36
(**b**) OJ No. L218, 6.8.91, p. 1
(**c**) OJ No. L91, 15.4.93, p. 10

(*a*) which is situated in an area included in the list of less-favoured farming areas adopted by the Council or the Commission of the European Communities under Article 2(2) of Council Directive No. 75/268/EEC(**a**) on mountain and hill farming and farming in certain less-favoured areas as amended by Council Directive 80/666/EEC(**b**), which list is contained in Council Directive 84/169/EEC(**c**) as amended by Commission Decision 91/25/EEC(**d**), and

(*b*) which is severely disadvantaged land or disadvantaged land;

''ewe'' means a female sheep which, on the qualifying day, is more than one year old;

''forage area'' means the area of land producing plants grazed by, or fed to, livestock;

''livestock unit'' means the unit of measurement of numbers of livestock described in Article 19 and Annex 1 of the Council Regulations;

''occupier'' includes a person who has a right to use eligible land for the purpose of grazing cattle or sheep;

''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, or in such numbers that the need for supplementary feeding leads to excessive trampling or poaching of the land by the animals or excessive rutting by vehicles used to transport the feed;

''qualified flock'' means a flock of ewes which is kept on eligible land, or on eligible land and other land used with it, primarily for the breeding and rearing of lambs, and which is, in the opinion of the Department, maintained and managed in accordance with sound husbandry practice;

''the qualifying day'' means, in respect of any year in which a compensatory allowance may be paid under these Regulations, 1st January in that year;

''regular breeding herd'' means a herd of cattle which is kept on eligible land, or on eligible land and other land used with it, and which—

(*a*) is, in the opinion of the Department, maintained primarily for the purpose of breeding and rearing calves, and

(*b*) is in the opinion of the Department, maintained and managed in accordance with sound husbandry practice;

''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

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(**a**) OJ No. L128, 19.5.75, p. 1
(**b**) OJ No. L180, 14.7.80, p. 34
(**c**) OJ No. L82, 26.3.84, p. 67
(**d**) OJ No. L16, 22.1.91, p. 25

compensatory allowance was paid in respect of that land before the date when the conversion to forest was completed under the Hill Livestock (Compensatory Allowances) Regulations 1984(**a**), the Hill Livestock (Compensatory Allowances) Regulations 1979(**b**); or the Hill Livestock (Compensatory Allowances) Regulations 1975(**c**); but land shall cease to be relevant afforested land for the purposes of these Regulations 15 years after the date when such conversion was completed;

"retirement pension" means a category A and category B pension within the meaning of section 20(1)(*f*) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**d**); a category C and category D pension within the meaning of section 63(*f*) of that Act, or a graduated retirement benefit as referred to in Schedule 1 to the Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978(**e**);

"severely disadvantaged land" means—

(*a*) the land shown coloured pink on the designated map, being land—

(i) which is, in the opinion of the Department, inherently suitable for extensive livestock production but not for the production of crops in quantity materially greater than that necessary to feed such livestock as are capable of being maintained on such land, and

(ii) whose agricultural production is, in the opinion of the Department, severely restricted in its range by, or by any combination of, soil, relief, aspect or climate;

"sound husbandry practice" includes practice in relation to the grazing and feeding of livestock;

"specially qualified flock" means a qualified flock—

(*a*) in which all, or in the opinion of the Department substantially all, of the ewes comprised in the flock are of an approved breed;

(*b*) in which the ewes are in the opinion of the Department, maintained in three distinct age groups; and

(*c*) which is maintained on severely disadvantaged land or on severely disadvantaged land and other land used with it;

"specified control measure" means any check which a member state is required to carry out under Article 6 of the Commission Regulation.

(**a**) S.I. 1984/2024 to which the relevant amendment is S.I. 1985/2075. There are other amendments which are not relevant because S.I. 1984/202 was revoked in so far as it applied to Northern Ireland by S.R. (N.I.) 1987 No. 92

(**b**) S.I. 1979/1748, amended by S.I. 1980/2028, 1981/1843, 1982/1886 and revoked by S.I. 1984/2024

(**c**) S.I. 1975/2210, amended by S.I. 1976/1203, 1977/1960, 1979/941 and revoked by S.I. 1979/1748

(**d**) 1992 c. 7

(**e**) S.R. 1978 No. 105

Compensatory allowances

3.—(1) Subject to the provisions of these Regulations, the Department may, in respect of the year 1994 and each succeeding year, pay to any person who is on the qualifying day in that year the occupier of eligible land, a compensatory allowance for cattle and sheep owned or leased under a formal leasing arrangement by him on that day, being cattle comprised in a regular breeding herd and sheep comprised in a qualified flock.

(2) A compensatory allowance in respect of any year shall be paid to an occupier of eligible land only if (except in the case of such an occupier who is in receipt of a retirement pension) he has entered into a written undertaking in such form as the Department may require to the effect that he will, for a period of five years from the first payment of a compensatory allowance made under these Regulations, the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1987(**a**) or the Hill Livestock (Compensatory Allowances) Regulations (Northern Ireland) 1992(**b**) continue to use eligible land for agricultural purposes.

(3) Subject to regulations 3(5), 3(6) and 4, a compensatory allowance for cattle shall be payable in respect of the number of breeding cows comprised in a herd on the qualifying day at a rate of 20.3 ECU per cow.

(4) Subject to regulations 3(5), 3(6) and 5, a compensatory allowance for sheep shall be payable in respect of the number of ewes comprised in a flock on the qualifying day at a rate of 3.045 ECU per ewe.

(5) Notwithstanding the provisions of paragraphs (3) and (4) above, the total amount of a compensatory allowance which may be paid in respect of any year—

(*a*) to the occupier of severely disadvantaged land, shall not exceed £81·13 or 123 ECU for each hectare of such land which appears to the Department to have been available to that occupier in the preceding year for the maintenance of his herd or flock or which is relevant afforested land;

(*b*) to the occupier of disadvantaged land, shall not exceed £60·85 or 123 ECU for each hectare of such land which appears to the Department to have been available to that occupier in the preceding year for the maintenance of his herd or flock or which is relevant afforested land.

(6) Where in this regulation alternative rates in sterling and in ECU are given, the rate which results in the lower payment in sterling shall apply.

Provisions with respect of cattle

4.—(1) A compensatory allowance for cattle shall not be paid in respect of any breeding cow the use of which for breeding would not, in the opinion of the Department, be in accordance with sound husbandry practice.

(2) Where, in the opinion of the Department, an appreciable quantity of milk has been produced by a regular breeding herd in the period of 12 months immediately preceding the qualifying day, and such milk has been sold or

(**a**) S.R. (N.I.) 1987 No. 92 as amended by S.R. 1987 No. 445, S.R. 1990 No. 36, S.R. 1991 No. 58 and S.R. 1991 No. 286

(**b**) S.R. (N.I.) 1992 No. 68 as amended by S.R. 1993 No. 16