STATUTORY INSTRUMENTS

1980 No. 1811

AGRICULTURE

The Sheep Variable Premium (Protection of Payments) (No. 2) Order 1980

Made - - - -	*27th November* 1980
Laid before Parliament	*28th November* 1980
Coming into Operation	*29th November* 1980

The Minister of Agriculture, Fisheries and Food, the Secretaries of State for Scotland, Wales and Northern Ireland, acting jointly in excercise of the powers conferred upon them by sections 5 and 35(3) of the Agriculture Act 1957(a), and now vested in them, and of all other powers enabling them in that behalf, hereby make the following order:—

Citation and commencement

1. This Order may be cited as the Sheep Variable Premium (Protection of Payments) (No. 2) Order 1980, and shall come into operation on 29th November 1980.

Interpretation

2.—(1) In this Order, unless the context otherwise requires,—

"animal" means an animal of the ovine species;

"authorised officer", in relation to any purpose referred to in this Order, means a person authorised by the Board to act for that purpose;

"the Board" means the Intervention Board for Agricultural Produce established under section 6 of the European Communities Act 1972(b);

"carcase" means the carcase of an animal;

"certified" means certified by an authorised officer as being eligible for a premium payment, and "certificate" shall be construed accordingly;

"Community" means the European Economic Community;

(a) 1957 c. 57; section 5 is applied to Community arrangements by section 6(3) and (4) of the European Communities Act 1972 (c. 68) and is to be read with the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272).

(b) 1972 c. 68.

"deadweight certification centre" means a place for the time being approved by the Board for the certification of carcases;

"ewe" has the meaning given to it in article 4(2)(*b*) below;

"liveweight certification centre" means a place for the time being approved by the Board for the certification of animals;

"premium payment" has the meaning given to it in article 3(1) below;

"produce" means an animal or carcase;

"producer" in relation to any produce, means the person in whose name such produce is presented for premium payment;

"ram" has the meaning given to it in article 4(2)(*a*) below.

(2) Any reference in this order to the Board, other than one contained in this paragraph or in article 11 below, shall include, in relation to Great Britain, a reference to the Meat and Livestock Commission when acting for the Board, and, in relation to Northern Ireland, a reference to the Department of Agriculture for Northern Ireland when so acting.

Scope of order and functions of Board

3.—(1) The provisions of this order shall have effect for the protection of any payment (in this order called a premium payment) made by the Board in respect of an animal or carcase by virtue of Community arrangements for or related to the regulation of the market for that animal or carcase and requiring its marking in connexion with the payment.

(2) The examination, approval, marking and certification of animals and carcases under any provision of this order shall be carried out by the Board.

Certification and marking of animals and carcases

4.—(1) Except where recovery of premium is required under article 9(3) of Council Regulation (EEC) No. 1837/80(**a**), animals which have been determined under article 1(2) of Commission Regulation (EEC) No. 2661/80(**b**) as ineligible for premium payment, that is to say

(*a*) rams and ewes or their carcases;

(*b*) animals or carcases weighing less than 8 kilogrammes actual or estimated carcase weight;

will not be certified.

(2) In paragraph (1) above—

(*a*) "ram" means an entire male animal which has developed the characteristics of an adult animal;

(*b*) "ewe" means a female animal which has lambed at least once.

(3) Where an animal is approved for certification at a liveweight certification centre, or at a port in Northern Ireland when the animal is to be sent to Great Britain, the animal shall be marked as prescribed in Schedule 1 to this order before it leaves the centre or the port.

(4) Where a carcase has been approved for certification at a deadweight certification centre, it shall be marked as prescribed in Schedule 2 to this order before it leaves the centre.

(**a**) O.J. No. L183, 16.7.1980, p. 1.
(**b**) O.J. No. L276, 20.10.80, p. 19.

(5) Where any produce has been marked under either of the foregoing paragraphs of this article, it shall immediately be certified unless it appears to an authorised officer that the approval of the produce for certification should have been withheld.

(6) No person other than an authorised officer or a person acting under the direction or with the permission of an authorised officer shall—

(*a*) move any produce awaiting marking under any of the foregoing provisions of this article,

(*b*) remove the ears from a carcase awaiting marking under paragraph (4) thereof.

Removal etc of ears of carcases

5. Where under any provision of this order a carcase is marked as prescribed in Schedule 2 hereto the Board may, if they think fit, cause the ear or ears of the carcase to be removed or mutilated at the time of marking.

Restrictions with respect to certified produce

6. No person shall—

(*a*) present to be approved for certification any produce which has already been certified;

(*b*) permit a certified animal to be used for breeding or allow it to have access to any animal with which it may mate.

Production of movement records

7. A person who buys, sells or transports animals and who is required by law to keep or to retain a record of the movement thereof shall produce it for inspection if so required by an authorised officer.

Records of transactions

8.—(1) A person who buys or sells certified animals or certified carcases shall keep a record showing, in respect of every purchase or sale by him of such animals, the particulars specified in Schedule 3 to this order.

(2) An invoice or similar account containing the said particulars or some of them, or a copy of such invoice or account, shall with respect to such of the said particulars as are contained therein be a sufficient record for the purposes of this article.

(3) A person who is required by this article to keep a record shall retain it for at least three years from the end of the calendar year in which it was drawn up and shall produce it for inspection if so required by an authorised officer.

Marking as evidence of certification

9. An animal marked as prescribed for any animal in Schedule 1 to this order and a carcase marked as so prescribed or as prescribed for any carcase in Schedule 2 thereto shall be deemed to have been certified—

(*a*) for the purpose of proceedings for a contravention of a provision of this order, unless the contrary is proved, and

(*b*) for any other purpose, unless the contrary is shown to the satisfaction of an authorised officer.

Power to require marking of animals brought into the United Kingdom

10.—(1) Subject to and in accordance with the provisions of this article, the Board may, if they think fit, from time to time by written notice require the marking, in the manner specified in the notice, of any class of animals so specified which are brought into the United Kingdom, or into any part of the United Kingdom so specified, from any place so specified outside the United Kingdom, and with regard to those matters the notice may make different provision for different circumstances.

(2) A notice imposing a requirement under this article shall be in the form set out in Schedule 4 to this order, or in a form to substantially the same effect, with such adaptation and modifications (if any) as the circumstances may require. The Board shall cause the notice to be published in the London, Edinburgh and Belfast Gazettes not less than 10 days before the requirement is to take effect, and copies of the notice to be prominently displayed at all times during which the requirement is in force at all places where facilities for marking animals in accordance with the requirement are for the time being available.

(3) The marking of animals under this article shall be done by or under the supervision of an authorised officer.

(4) Where a requirement under this article is in force in any part of the United Kingdom with respect to animals of any class, no person, with intent to evade the requirement, shall bring an animal of that class into that part of the United Kingdom at a place or time other than one at which facilities are available for marking the animal in accordance with the requirement; and, where an animal of that class has been brought into that part of the United Kingdom—

(*a*) the person having charge of the animal shall forthwith present it to be so marked;

(*b*) no person other than an authorised officer, or a person acting under the direction or with the permission of an authorised officer, shall move the animal after it has been so presented and before it has been so marked.

(5) Where a requirement under this article is to be discontinued, the Board shall cause notice of the discontinuance to be published in the London, Edinburgh and Belfast Gazettes not less than 10 days before a discontinuance is to take effect.

Powers of entry and to obtain evidence

11.—(1) An authorised officer may at any reasonable time enter upon land used for the production, slaughter or sale of animals or for the storage, grading, packing or sale of the carcases of animals and may inspect any animal or carcase found thereon.

(2) Where a carcase has been presented to an authorised officer for approval for certification at a deadweight certification centre, and the officer reasonably suspects that there has been an offence under secion 7 of the Agriculture Act 1957, or that a premium payment has been obtained illegally, or that there has been an attempt to commit such an offence or to obtain such a payment, the officer may take possession of the ears of the carcase at any time before it leaves the centre.

(3) A qualified person may, if he reasonably suspects that there has been any such offence or attempt as aforesaid or that a premium payment has been obtained illegally,—

(*a*) enter upon land used for the production, storage, grading, packing, slaughter or sale of any produce to which this order applies;

(*b*) take possession of the ears of any carcase;

(*c*) take possession of any book, account or record required to be kept by law and appearing to him to be material, or take a copy of, or extract from, any such book, account or record.

An officer acting in exercise of the powers of this paragraph shall carry a warrant of his authority so to act, and shall produce the same on demand.

(4) In paragraph (3) above "qualified person" means—

(*a*) in relation to any part of the United Kingdom, an officer of the Board specially authorised for the purposes of that paragraph by the Board;

(*b*) in relation to England, an officer of the Ministry of Agriculture, Fisheries and Food so authorised by the Minister of Agriculture, Fisheries and Food;

(*c*) in relation to Scotland, an officer of the Department of Agriculture and Fisheries for Scotland so authorised by the Secretary of State;

(*d*) in relation to Wales, an officer of the Secretary of State so authorised by the Secretary of State;

(*e*) in relation to Northern Ireland, an officer of the Department of Agriculture for Northern Ireland so authorised by that department.

Revocation

12. The Sheep Variable Premium (Protection of Payments) Order 1980**(a)** is hereby revoked.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 21st November 1980.

(L.S.)

Peter Walker,
Minister of Agriculture, Fisheries and Food.

George Younger,
25th November 1980. Secretary of State for Scotland.

(a) S.I. 1980/1563.

21st November 1980. *Michael Roberts,*
Parliamentary Under Secretary of State for Wales.

27th November 1980. *Humphrey Atkins,*
Secretary of State for Northern Ireland.

Articles 4 (3), (5), 9

SCHEDULE 1

Marks for Animals

The mark shall be either:

(*a*) a circular punch hole about 12 millimetres in diameter within a tattoo mark consisting of a circle or rectangle of dots measuring about 25 millimetres across the diameter or diagonal; or

(*b*) an equilateral triangular punch hole with sides measuring about 13 millimetres in length.

The mark shall be placed in the left or in the right ear of the animal as the Board shall by written notice from time to time direct, and copies of the notice shall be prominently displayed at every liveweight certification centre at all times during which the direction is in force. The notice may make different provision for different circumstances.

Articles 4 (4), (5), 5, 9

SCHEDULE 2

Marks for Carcases

1. For carcases marked in England and Wales, the mark, which shall be applied at least once to each half of the carcase, shall be either:

(*a*) two concentric circles of about 40 and 26 millimetres in diameter with the inscription "IBAP CERTIFIED" between them, and, within the smaller circle, the number allocated to the authorised officer for the time being using or directing the use of the instrument which applies the mark, or

(*b*) two concentric diamonds, the smaller being about 10 millimetres inside the larger, and the larger diamond having a diagonal, measured vertically, of about 64 millimetres, and measured horizontally, of about 38 millimetres.

2. For carcases marked in Scotland or Northern Ireland, the mark, which shall be applied at least once to each half of the carcase, shall be one of the following marks:

(*a*) a cross of St. Andrew within a circle of about 40 millimetres in diameter, the arms of the cross ending where they touch the circle;

(*b*) a mark similar in all respects to that described in paragraph 1(*a*) above;

(*c*) a mark similar in all respects to that described in paragraph 1(*b*) above.

Article 8

SCHEDULE 3

Particulars to be recorded of purchases and sales of certified animals or certified carcases

1. The date of the transaction.

2. Numbers and descriptions of animals or carcases.

3. In the case of a purchase or sale by auction at an auction market, the name and address of the auctioneer, and in any other case the name and address of the other party to the transaction.

SCHEDULE 4 *Article 10*

FORM OF NOTICE REQUIRING MARKING OF ANIMALS BROUGHT INTO THE United KINGDOM

SHEEP VARIABLE PREMIUM (PROTECTION OF PAYMENTS) (No. 2) ORDER 1980

MARKING REQUIREMENTS FOR OVINE ANIMALS BROUGHT INTO THE UNITED KINGDOM

The Intervention Board for Agricultural Produce hereby give notice pursuant to Article 10 of the above-mentioned Order that they require the marking in accordance with this notice of [*class or classes of animals*] brought into [*the United Kingdom, Great Britain, or as the case may be*] from [*place or places outside the United Kingdom*] on or after the [*date*].

Marking requirements under this notice shall be operative until further notice, and the marking shall be done by or under the supervision of an officer authorised by or on behalf of the Board for that purpose. Marking facilities will be available at the following places and times:

The [*mark*] [*first mark*] to be applied to [*class or classes of animals*] shall be [*description*] and it shall be applied to the [*left*] [*right*] ear. [*The second mark*] [*to be applied to*] [*class or classes of animals*] [*shall be*] [*description*] [*and it shall be applied to the*] [*right*] [*left*] [*ear*].

So long as a requirement under this notice is in force in any part of the United Kingdom with respect to animals of any class, it is an offence for any person, with intent to evade the requirement, to bring an animal of that class into that part of the United Kingdom at a place or time other than one at which facilities are available for marking the animal in accordance with the requirement; and where an animal of that class has been brought into that part of the United Kingdom, it is an offence for the person in charge of the animal not to present it forthwith for marking, or for any unauthorised person to move it after it has been presented and before it has been marked.

Dated 19

[*Signature*] .....

[*Designation of signatory*] .....

.....

on behalf of the Intervention Board for Agricultural Produce.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order replaces the Sheep Variable Premium (Protection of Payments) Order 1980, which had certain technical defects in it, which have now been corrected.

The Order makes provision for the protection of payments to be made under arrangements of the European Economic Community for the regulation of the market in sheepmeat. The basic rules are laid down in Regulation (EEC) No. 1837/80 of the Council of 27th June 1980 (O.J. No. L183, 16.7.1980, p. 1) and in Regulation (EEC) No. 2661/80 of the Commission of 20th October 1980 (O.J. No. L276, 20.10.80, p. 19). The general supervision of the protection provisions, including arrangements for the examination, certification and marking of produce, will be undertaken by the Intervention Board for Agricultural Produce.

The Order requires the marking of any animal or carcase qualifying for a premium payment before certification for such payment, and contains other provisions designed to prevent the payment of more than one premium in respect of the same animal or carcase. It prohibits the use for breeding of certified animals.

Other provisions of the Order—

(*a*) provide for the production of records relating to the movement of ovine animals;

(*b*) provide for the keeping and production of records relating to the purchase, sale and slaughter of certified animals and carcases;

(*c*) confer powers to obtain evidence of suspected offences on officers authorised for the purpose;

(*d*) confer powers on qualified persons (as defined in the Order) to enter on land used for the production, storage, grading, packing, slaughter or sale of produce to which the Order applies.

Any contravention of the Order is an offence under section 7 of the Agricultural Act 1957.

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