STATUTORY INSTRUMENTS

2001 No. 1370

AGRICULTURE

Suckler Cow Premium Regulations 2001

Made - - - -	*4th April 2001*
Laid before Parliament	*5th April 2001*
Coming into force	*4th May 2001*

The Minister of Agriculture, Fisheries and Food and the National Assembly for Wales, being 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, acting jointly in exercise of the powers conferred on them by virtue of the said section 2(2), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Title and commencement

1. These Regulations may be cited as the Suckler Cow Premium Regulations 2001 and shall come into force on 4th May 2001.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

"applicant" means a producer who has applied for premium;

"the appropriate authority" means—

(a) where the Minister is the relevant competent authority in relation to the holding in question, the Minister; and

(b) where the National Assembly is the relevant competent authority in relation to the holding in question, the National Assembly;

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

"cattle" means cows and heifers;

(a) The power of the Minister of Agriculture, Fisheries and Food to make, as a Minister designated by virtue of S.I. 1972/1811 in relation to the common agricultural policy of the European Community, regulations which extend to Scotland remains exercisable by virtue of section 57(1) of the Scotland Act 1998 (1998 c.46). The Minister's power to make, as a Minister so designated, regulations which extend to Wales is confirmed by article 3(4) of the European Communities (Designation) (No. 3) Order 1999 (S.I. 1999/2788). The power of the National Assembly for Wales, being designated by virtue of S.I. 1999/2788 in relation to the common agricultural policy of the European Community, to make regulations in respect of an agricultural activity undertaken anywhere in the United Kingdom on a farm or group of farms which includes a parcel of land situated in Wales is exercisable by virtue of article 3(3) of, and Schedule 2(b) to, that Order, whilst the power of the National Assembly to make regulations jointly with the Minister of Agriculture, Fisheries and Food is conferred by article 3(4) of that Order.

(b) 1972 c.68.

"Commission Regulation 3887/92" 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)**;

"Commission Regulation 2342/1999" means Commission Regulation (EC) No. 2342/1999 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**(b)** (as amended by Commission Regulation (EC) No. 1042/2000**(c)**, Commission Regulation (EC) No. 1900/2000**(d)**, Commission Regulation (EC) No. 2733/2000**(e)** and Commission Regulation (EC) No. 192/2001**(f)**);

"Council Regulation 3508/92" means Council Regulation (EEC) No. 3508/92 establishing an integrated administration and control system for certain Community aid schemes**(g)**;

"Council Regulation 820/97" means Council Regulation (EC) No. 820/97 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products**(h)**;

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

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

"forage area" has the meaning given by Article 12(2)(b) of Council Regulation 1254/1999;

"holding" has the meaning given by Article 3(b) of Council Regulation 1254/1999;

"the IACS Regulations" means the Integrated Administration and Control System Regulations 1993**(k)**;

"livestock unit" means the unit of measurement used to establish the stocking density of the forage area on a holding, and calculated in accordance with Article 12 of, and Annex III to, Council Regulation 1254/1999 by reference to the number of animals on that forage area;

"the Minister" means the Minister of Agriculture, Fisheries and Food;

"the National Assembly" means the National Assembly for Wales;

"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, and "overgrazed" shall be construed accordingly;

"premium" means the premium for maintaining suckler cows and heifers which is payable under Article 6 of Council Regulation 1254/1999;

"premium animal" means, in respect of a given scheme year, a suckler cow or heifer in respect of which an application for premium has been or will be made in that scheme year;

"producer" has the meaning given by Article 3(a) of Council Regulation 1254/1999;

"Regulation 1760/2000" means Regulation (EC) No. 1760/2000 of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and requiring the labelling of beef and beef products and repealing Council Regulation (EC) No. 820/97**(l)**;

(a) OJ No. L391, 31.12.92, p.36, as last amended by Commission Regulation (EC) No. 2721/2000 (OJ No. L314, 14.12.2000, p.8).
(b) OJ No. L281, 4.11.1999, p.30.
(c) OJ No. L118, 19.5.2000, p.4.
(d) OJ No. L228, 8.9.2000, p.25.
(e) OJ No. L316, 15.12.2000, p.44.
(f) OJ No. L29, 31.1.2001, p.27.
(g) OJ No. L355, 5.12.92, p.1, as last amended by Commission Regulation (EC) No. 1593/2000 (OJ No. L182, 21.7.2000, p.4).
(h) OJ No. L117, 7.5.97, p.1, repealed by Regulation (EC) No. 1760/2000 of the European Parliament and of the Council (OJ No. L204, 11.8.2000, p.1).
(i) OJ No. L160, 26.6.1999, p.21.
(j) 2000 c.7.
(k) S.I. 1993/1317, as amended by S.I. 1994/1134, 1997/1148, 1999/1820 and 2000/2573.
(l) OJ No. L204, 11.8.2000, p.1.

"relevant competent authority" has the same meaning as in the IACS Regulations;

"retention period" means the retention period for premium animals referred to in Article 6(2) of Council Regulation 1254/1999 and starting as indicated in Article 16 of Commission Regulation 2342/1999;

"scheme year" means any calendar year in respect of which premium may be paid but also includes any part of a retention period in relation to an application for premium in respect of a given calendar year which falls within the following calendar year;

"specified control measure" means any check which a Member State is required to carry out under Article 6 of Commission Regulation 3887/92;

"specified record" means any record which an applicant is required to retain by virtue of—

(i) regulation 7(1);

(ii) article 9(1) of the Bovine Animals (Identification, Marking and Breeding Records) Order 1990**(a)**;

(iii) article 5(1) of the Bovine Animals (Records, Identification and Movement) Order 1995**(b)**;

(iv) Articles 7(1) and (4) of Council Regulation 820/97 and the Cattle Identification (Enforcement) Regulations 1997**(c)**;

(v) Articles 7(1) and (4) of Council Regulation 820/97 and the Cattle Identification Regulations 1998**(d)**; or

(vi) Articles 7(1) and (4) of Regulation 1760/2000 and the Cattle Identification Regulations 1998;

and

"unsuitable supplementary feeding methods" means 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 land by animals or excessive rutting by vehicles.

(2) Other expressions used in these Regulations have, in so far as the context admits, the same meanings as in Council Regulation 1254/1999, Commission Regulation 2342/1999 and Commission Regulation 3887/92.

(3) In these Regulations any reference 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.

(4) In these Regulations any reference to—

(a) a numbered regulation shall be construed as a reference to the regulation so numbered in these Regulations; and

(b) the Schedule shall be construed as a reference to the Schedule to these Regulations.

Application

3.—(1) These Regulations shall apply to applicants, and in relation to the holdings of such applicants, to the specified extent.

(2) For the purposes of paragraph (1), "the specified extent", in relation to an applicant, is the extent to which the appropriate authority is the relevant competent authority in relation to his holding for the purposes of the IACS Regulations.

Applications for premium etc.

4.—(1) For the purposes of Article 6(2)(b) of Council Regulation 1254/1999, the total individual reference quantity which must not be exceeded shall be 180,000 kilograms of milk or milk products.

(a) S.I. 1990/1867, as amended by S.I. 1993/503 and revoked by S.I. 1995/12.
(b) S.I. 1995/12, partially revoked by S.I. 1998/871.
(c) S.I. 1997/1901, revoked by S.I. 1998/871.
(d) S.I. 1998/871, as amended by S.I. 1998/1796, 1998/2969 and 1999/1339.

(2) For the purposes of Article 30(2) of Commission Regulation 2342/1999, the period in each calendar year during which an application for premium may be submitted shall be the period from and including 1st July to and including 6th December in that calendar year.

(3) A producer shall not be entitled to submit more than one application for premium during any one calendar year.

(4) Where in respect of any given calendar year a number of applications for premium are submitted by persons who have in respect of that year made more than one area aid application under Article 6 of Council Regulation 3508/92 but who are regarded as a single farmer within the meaning of Article 1(4) of that Regulation, the applications concerned shall be deemed to be a single application made by one producer for the purposes of paragraph (3).

(5) Where any additional payment provided for by—

(a) Article 1 of Council Regulation (EC) No. 2443/96 providing for additional measures for direct support of producers' incomes or for the beef and veal sector**(a)**, or

(b) Article 14 of Council Regulation 1254/1999,

is made to a successful applicant, then—

(i) he shall be deemed to have applied for that payment under this regulation in the like manner that he applied for the premium concerned;

(ii) the application he is deemed to have made as aforesaid shall for the purposes of paragraph (3) of this regulation be regarded as one and the same as the application he did make and which attracted that additional payment; and

(iii) the additional payment shall for the purposes of regulations 5 to 15 be regarded as a payment of premium.

Overgrazing

5.—(1) Subject to paragraph (2) below, where, in the year preceding the opening date for submitting claims for premium in respect of any given scheme year, the appropriate authority forms the opinion that any parcel of land is being overgrazed, that authority may notify the occupier of the maximum number of premium animals which may be grazed and maintained on that parcel in that scheme year, which number shall be determined by taking account of the number of other animals (expressed in terms of livestock units) likely to be grazed and maintained on the parcel concerned in the scheme year in question and having regard to such conditions as may be specified in the notification.

(2) The appropriate authority may in the year preceding the opening date for submitting claims for premium in respect of any given scheme year issue a notification under paragraph (1) above even where there is no evidence that the parcel of land to which it relates is being overgrazed if that authority has previously made such a notification under paragraph (1) or any of the provisions specified in paragraph (5) in respect of that parcel having formed the opinion that it was being overgrazed.

(3) Where the appropriate authority has made a notification under paragraph (1) or any of the provisions specified in paragraph (5), no premium shall be paid in respect of the scheme year for which it was issued on any number of premium animals grazed and maintained in that scheme year on the parcel of land to which it relates in excess of the maximum number of such animals specified in it.

(4) Where the appropriate authority has made a notification under paragraph (1) above and is satisfied that—

(a) any condition specified in that notification has been breached; or

(b) more premium animals than the maximum number specified in the notification have been grazed and maintained on the parcel of land to which it relates in the scheme year for which it was issued,

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(a) OJ No. L333, 21.12.96, p.2.

that authority may withhold or recover on demand the whole or any part of the premium otherwise payable or as the case may be already paid to the recipient of the notification for the scheme year to which it relates.

(5) The provisions referred to in paragraphs (2) and (3) are—

(a) regulation 3A of the Suckler Cow Premium Regulations 1993**(a)**;

(b) regulation 11 of the Beef Special Premium Scheme Regulations 1996**(b)**;

(c) where the Minister is the appropriate authority, regulation 8 of the Slaughter Premium Regulations 2000**(c)**;

(d) where the National Assembly is the appropriate authority, regulation 8 of the Slaughter Premium (Wales) Regulations 2001**(d)**;

(e) regulation 3A of the Sheep Annual Premium Regulations 1992**(e)**; and

(f) regulation 10 of the Hill Livestock (Compensatory Allowances) Regulations 1999**(f)**.

Unsuitable supplementary feeding methods

6.—(1) Where, in any scheme year, the applicant uses unsuitable supplementary feeding methods, the appropriate authority may—

(a) in accordance with paragraph (2), reduce or withhold the amount of premium otherwise payable to him in respect of that scheme year; or

(b) where premium has already been paid to him, recover any premium so paid.

(2) Where the applicant was not penalised for using unsuitable supplementary feeding methods under paragraph (1) nor under any of the provisions specified in paragraph (3) in the preceding scheme year, the amount of premium referred to in paragraph (1) may be reduced by ten per cent; where the applicant was so penalised in the preceding scheme year, but not in the scheme year before that, that amount may be reduced by twenty per cent; and where the applicant was so penalised in each of the two preceding scheme years that amount may be withheld.

(3) The provisions referred to in paragraph (2) are—

(a) regulation 3B of the Suckler Cow Premium Regulations 1993;

(b) regulation 12 of the Beef Special Premium Scheme Regulations 1996;

(c) where the Minister is the appropriate authority, regulation 9 of the Slaughter Premium Regulations 2000;

(d) where the National Assembly is the appropriate authority, regulation 9 of the Slaughter Premium (Wales) Regulations 2001;

(e) regulation 3B of the Sheep Annual Premium Regulations 1992; and

(f) regulation 8(3) of the Hill Livestock (Compensatory Allowances) Regulations 1999.

Retention of records

7.—(1) An applicant shall retain for a period of four years from the relevant date any bill, account, receipt, voucher or other record relating to—

(a) the number of cattle kept on his holding during the period of six months following that date; and

(b) any transaction concerning cattle, milk or milk products carried out by him on that date and during the period of twelve months following that date.

(2) For the purpose of this regulation "relevant date" means, in relation to an applicant, the date on which his application was submitted to the appropriate authority.

(a) S.I. 1993/1441, as amended by S.I. 1994/1528, 1995/15, 1995/1446, 1996/1488, 1997/249 and 2000/2573.
(b) S.I. 1996/3241, as amended by S.I. 1999/1179 and 2000/2573.
(c) S.I. 2000/3126.
(d) S.I. 2001/1332 (W. 82).
(e) S.I. 1992/2677, as amended by 1994/2741, 1995/2779, 1996/49, 1997/2500, 2000/2573 and 2001/281.
(f) S.I. 1999/3316.

Powers of authorised persons

8.—(1) An authorised person may at all reasonable hours and on producing, if so required, some duly authenticated document showing his authority, exercise the powers specified in this regulation for the purposes of—

(a) carrying out any specified control measure; or

(b) ascertaining whether an offence under regulation 12(d) has been or is being committed.

(2) An authorised person may enter any land, other than land used only as a dwelling, which is, or which such person has reasonable cause to believe to be, a holding occupied by, or in the possession of, an applicant.

(3) An authorised person who has entered any land by virtue of this regulation may—

(a) inspect and verify the total area of land, including forage area, farmed by an applicant;

(b) inspect and count any cattle on that land;

(c) carry out any other activity which is a specified control measure; and

(d) inspect that land for the purpose of determining whether or not it has been overgrazed or unsuitable supplementary feeding methods have been used on it.

(4) An authorised person entering any land by virtue of this regulation may take with him such other persons as he considers necessary.

(5) An authorised person may—

(a) require an applicant or any employee, servant or agent of an applicant to produce any specified record and to supply such additional information in that person's possession or under his control relating to an application for premium as the authorised person may reasonably request;

(b) inspect any such specified record and, where any such record is kept by means of a computer, have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with that specified record;

(c) require that copies of, or extracts from, any specified record be produced;

(d) seize and retain any such specified record which he has reason to believe may be required as evidence in proceedings under these Regulations and, where any such record is kept by means of a computer, require it to be produced in a form in which it may be taken away.

Assistance to authorised persons

9. An applicant or any employee, servant or agent of an applicant shall give to an authorised person such assistance as the authorised person may reasonably request so as to enable the authorised person to exercise any power conferred by regulation 8 and in particular, in relation to any cattle, shall arrange for the collection, penning and securing of such cattle, if so requested.

Withholding and recovery of premium

10.—(1) Where at any time during a scheme year an applicant fails to—

(a) comply with the requirements of regulation 7(1);

(b) comply with the requirements of article 7(4) of Council Regulation 1760/2000 or the Cattle Identification Regulations 1998; or

(c) in the reasonable opinion of the appropriate authority, keep any specified record in a form which is accurate and up to date,

the appropriate authority may withhold or recover on demand the whole or any part of any premium payable or, as the case may be, paid to the producer in respect of that scheme year.

(2) Where an applicant intentionally obstructs an authorised person, or a person accompanying such authorised person and acting under his instructions, from exercising a power conferred by regulation 8, or fails without reasonable excuse to comply with a request made by an authorised person when exercising such a power, the appropriate authority shall be entitled to recover on demand from that applicant the whole or any part of any premium paid to him.

(3) Where a person (other than an applicant) intentionally obstructs an authorised person, or a person accompanying such authorised person and acting under his instructions, from exercising a power conferred by regulation 8, or fails without reasonable excuse to comply with a request made by an authorised person for the purpose of exercising such a power, the appropriate authority shall be entitled, where such person was at the time of such obstruction or failure an employee, servant or agent of an applicant, to recover on demand from that applicant the whole or any part of any premium paid to that applicant.

Rate of interest

11. Except where the appropriate authority recovers from any applicant any premium or part of any premium paid to that applicant as a result of an error of that authority, for the purpose of Article 14(1) of Commission Regulation 3887/92, interest shall be charged at the rate of one percentage point above the sterling three months London Interbank Offered Rate on a day to day basis for the period specified in that Article.

Offences

12. It shall be an offence for a person—

(a) without reasonable excuse, to fail to comply with the provisions of regulation 7(1);

(b) intentionally to obstruct an authorised person in the exercise of a power conferred by regulation 8;

(c) without reasonable excuse, to fail to comply with a request made under regulation 9; or

(d) knowingly or recklessly—

(i) to make a statement which is false or misleading in a material particular where the statement is made in a specified record; or

(ii) to make a statement or furnish any information which is false or misleading in a material particular where the statement is made or the information is furnished for the purposes of obtaining for himself or any other person the whole or any part of any premium.

Punishment of offences

13.—(1) A person guilty of an offence under regulation 12(a), (b) or (c) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) A person guilty of an offence under regulation 12(d) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Time limit for prosecutions

14.—(1) Proceedings for an offence under regulation 12 may, subject to paragraph (2) below, in England and Wales be brought, and in Scotland be commenced, within the period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant proceedings comes to his knowledge.

(2) No such proceedings shall be brought by virtue of this regulation more than twelve months after the commission of the offence.

(3) For the purpose of this regulation, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

Offences by bodies corporate

15.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) any director, manager, secretary or other similar officer of the body corporate, or

(b) any person who was purporting to act in any such capacity,

he, as well as the body corporate, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

(2) For the purposes of paragraph (1) above, "director", in relation to a body corporate whose affairs are managed by its members, means a member of that body corporate.

(3) Where an offence under these Regulations is committed in Scotland by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

Revocations and saving

16.—(1) Subject to paragraph (2), the Regulations specified in the Schedule are hereby revoked in so far as they apply to the same extent as these Regulations apply pursuant to regulation 3.

(2) Paragraph (1) shall not affect the continued operation of regulations 4 to 12 of the Suckler Cow Premium Regulations 1993**(a)** in respect of premium paid under those Regulations.

Joyce Quin
Minister of State,
4th April 2001 Ministry of Agriculture, Fisheries and Food

Signed on behalf of the National Assembly for Wales

John Marek
3rd April 2001 The Deputy Presiding Officer of the National Assembly

(a) S.I. 1993/1441, as amended by S.I. 1994/1528, 1995/15, 1995/1446, 1996/1488, 1997/249 and 2000/2573.

SCHEDULE

regulation 16(1)

REVOCATIONS

Title	*Reference*
The Suckler Cow Premium Regulations 1993	S.I. 1993/1441
The Suckler Cow Premium (Amendment) Regulations 1994	S.I. 1994/1528
The Suckler Cow Premium (Amendment) Regulations 1995	S.I. 1995/15
The Suckler Cow Premium (Amendment) (No. 2) Regulations 1995	S.I. 1995/1446
The Suckler Cow Premium (Amendment) Regulations 1996	S.I. 1996/1488
The Suckler Cow Premium (Amendment) Regulations 1997	S.I. 1997/249

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 4th May 2001, replace the provisions of the Suckler Cow Premium Regulations 1993 (S.I. 1993/1441) and the Suckler Cow Premium (Amendment) Regulations 1994 to 1997 (S.I. 1994/1528, 1995/15, 1995/1446, 1996/1488, and 1997/249).

The Regulations lay down implementing measures for the suckler cow premium scheme provided for in Article 6 of Council Regulation (EC) No. 1254/1999 on the common organisation of the market in beef and veal (OJ No. L160, 26.6.1999, p.21). They provide for the administration of the scheme in relation to—

(a) holdings situated wholly in England, and also holdings situated partly in England and partly elsewhere in the United Kingdom, where the Minister of Agriculture, Fisheries and Food ("the Minister") is responsible for processing the farmer's application for suckler cow premium; and

(b) holdings situated wholly in Wales, and also holdings situated partly in Wales and partly elsewhere in the United Kingdom, where the National Assembly for Wales ("the National Assembly") is responsible for processing such an application (regulations 4 to 7).

They also lay down enforcement provisions applicable where the Minister or the National Assembly has such responsibility (regulations 8 to 15).

The rules relating to administration provide for the submission of applications for suckler cow premium (regulation 4) and the retention of records by applicants (regulation 7), impose sanctions for overgrazing and the use of unsuitable supplementary feeding methods (which are included as a condition of the scheme by virtue of Article 3 of Council Regulation (EC) No. 1259/1999 establishing common rules for direct support schemes under the common agricultural policy (OJ No. L160, 26.6.1999, p.113)) (regulations 5 and 6), and provide for withholding or recovery of suckler cow premium where there is a breach of the rules of the scheme (regulations 10 and 11).

The enforcement provisions confer powers of entry, inspection and collection of evidence on authorised persons (regulations 8 and 9). These include the powers required under Article 6 of Commission Regulation (EC) No. 3887/92 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes (OJ No. L391, 31.12.92, p.36, as last amended by Commission Regulation (EC) No. 2721/2000 (OJ No. L314, 14.12.2000, p.8)). Regulations 12 to 15 deal with offences and penalties.

No Regulatory Impact Assessment has been prepared in respect of these Regulations.

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