1989 No. 127

AGRICULTURE

Beef Special Premium (Protection of Payments) Regulations (Northern Ireland) 1989

Made	*31st March 1989*
Coming into operation . .	*3rd April 1989*

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 Beef Special Premium (Protection of Payments) Regulations (Northern Ireland) 1989 and shall come into operation on 3rd April 1989.

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:—

"animal" means a male animal of the bovine species;

"appointed officer" means an officer of the Department authorised by it to examine and mark animals under regulation 5;

"authorised person" means any person authorised in writing by the Department to act for the purposes of regulation 7;

"the Commission Regulation" means Commission Regulation (EEC) No. 714/89(**d**) laying down detailed rules applying to the special premium for beef producers;

"the Council Regulation" means Council Regulation (EEC) No. 468/87(**e**) laying down general rules applying to the special premium for beef producers as amended by Council Regulation (EEC) No. 572/89(**f**);

(**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. 1984 No. 253
(**c**) 1954 c. 33 (N.I.)
(**d**) O.J. No. L78, 21.3.89, p. 38
(**e**) O.J. No. L48, 17.2.87, p. 4
(**f**) O.J. No. L63, 7.3.89, p. 1

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

"mark" means a circular punch hole 12 mm in diameter punched in an animal's left ear; and

"premium" means the special premium referred to in Article 4a of Council Regulation (EEC) No. 805/68(**a**) on the common organisation of the market in beef and veal;

(3) Other expressions used in these Regulations have the same meanings as in the Council Regulation and the Commission Regulation.

Application for premium payments

3.—(1) Subject to the provisions of this regulation a producer may apply to the Department for a premium payment, in respect of an animal, in such form as the Department may require.

(2) Applications for payment of premium shall be lodged with the Department—

(*a*) in 1989 during the periods 3rd April to 4th June and 5th June to 31st December; and

(*b*) in any subsequent year during the periods 1st January to 31st May and 1st September to 31st December,

(all dates inclusive).

(3) A producer may lodge one application in each of the application periods provided for in paragraph (2).

(4) Animals which are under eight months old at the date of lodging of an application for payment of the premium shall not be included on the application.

(5) Paragraphs (2) and (3) shall not apply in respect of an application lodged in accordance with Article 11(1) of the Commission Regulation.

(6) Paragraph (4) shall apply in relation to an application lodged in accordance with Article 11(1) of the Commission Regulation as if for the words "eight months old" there were substituted the words "nine months old".

(7) No application may be made by a producer—

(*a*) if in any calendar year the total number of animals in respect of which he has applied for a premium payment (other than applications which have been refused) is equal to or exceeds ninety; or

(*b*) if pursuant to Article 9(6) of the Commission Regulation he is excluded from the premium scheme.

Eligibility of animals for payment of premium

4.—(1) To be eligible for payment of premium—

(**a**) O.J. No. L148, 28.6.68, p. 24 (O.J./S.E. 1968 (I) p. 187); Article 4a was inserted by Council Regulation (EEC) No. 467/87 (O.J. No. L48, 17.2.87, p. 1) and amended by Council Regulation (EEC) No. 571/89 (O.J. No. L61, 4.3.89, p. 43).

(*a*) animals must be identified in accordance with the Tuberculosis Control Order (Northern Ireland) 1964(**a**);

(*b*) animals must be recorded in accordance with the Movement of Animals (Records) Order (Northern Ireland) 1980(**b**); and

(*c*) animals which have been moved from one herd to another must have this movement authorised and recorded in accordance with the Brucellosis Control Order (Northern Ireland) 1972(**c**).

(2) Any animal which has a punch hole in its left ear or more than two punch holes in its right ear shall not be eligible for premium.

(3) Any animal which has either ear permanently damaged or mutilated in any way which would cast doubt on its eligibility for a premium payment shall not be eligible for the premium unless the damage or mutilation has been reported to the Department and the Department has confirmed the eligibility of the animal for application for premium.

Examination and marking procedures

5.—(1) Subject to paragraph (2) an applicant for premium shall—

(*a*) collect the animals in respect of which the application has been made at a convenient place on his holding for the purposes of examination by an appointed officer who on being satisfied on the eligibility of the animals for premium shall mark them as specified in regulation 2;

(*b*) so manage and secure them before, during and after their examination and marking that the appointed officer may carry out the examination and marking without risk of injury to himself;

(*c*) furnish for inspection by the appointed officer the record required to be kept in accordance with the Movement of Animals (Records) Order (Northern Ireland) 1980 and in relation to any animal which was not born in the herd a permit required under the Brucellosis Control Order (Northern Ireland) 1972 authorising its movement from the herd in which it was born; and

(*d*) give the appointed officer such assistance with the examination and marking as may reasonably be required.

(2) Paragraph (1) shall not apply in relation to animals which are the subject of an application lodged in accordance with Article 11(1) of the Commission Regulation where such animals are sent by the applicant for premium to a slaughterhouse licensed by the Department under the Slaughter-Houses Act (Northern Ireland) 1953(**d**) for immediate slaughter.

(3) Animals to which paragraph (1) does not apply by virtue of paragraph (2) shall be presented, for the purpose of examination by the Department, at a place approved by the Department.

(**a**) S.R. & O. (N.I.) 1964 No. 31 as amended by S.R. & O. (N.I.) 1968 No. 236; S.R. & O. (N.I.) 1973 No. 76; S.R. 1977 No. 1; S.R. 1981 No. 348; S.R. 1981 No. 412 and S.R. 1986 No. 48

(**b**) S.R. 1980 No. 195 as amended by S.R. 1982 No. 218

(**c**) S.R. & O. (N.I.) 1972 No. 94 as amended by S.R. & O. (N.I.) 1973 No. 437; S.R. 1977 No. 47; S.R. 1978 No. 165; S.R. 1979 No. 126; S.R. 1981 No. 413 and S.R. 1982 No. 191

(**d**) 1953 c. 21 (N.I.)

Retention period

6.—(1) Subject to paragraph (2) animals which are marked in accordance with regulation 5(1)(*a*) shall be kept on the holding for a minimum period of two months following the date of lodging of the application with the Department.

(2) Paragraph (1) shall not apply in relation to any animals which are the subject of an application lodged in accordance with Article 11(1) of the Commission Regulation.

Powers of entry and inspection

7.—(1) For the purposes mentioned in Article 8(1) of the Commission Regulation an authorised person may, up to the end of the third year after the calendar year in which an application for a premium payment was lodged—

(*a*) enter at any reasonable time upon any agricultural land which is, or has been, used for the production of animals to which that application related;

(*b*) examine that land and any buildings erected upon it;

(*c*) identify, count and verify the total number of cattle on that land; and

(*d*) search for, examine, take possession of or copy any record or document relating to that application.

(2) In exercising the powers conferred on him by paragraph (1) an authorised person may be accompanied by such other persons acting under his instructions as appear to him to be necessary to enable the inspection and counting of cattle.

(3) The owner of the cattle and any person in charge of cattle on the land shall render all reasonable assistance to an authorised person in relation to any of the matters mentioned in paragraph (1)(*c*).

(4) An authorised person acting in exercise of the powers conferred by paragraph (1) shall carry a warrant of his authority so to act and shall produce it on demand.

Recovery of premiums

8. If at any time after a premium payment has been made it appears to the Department that any person—

(*a*) in order to obtain the premium payment made a false statement; or

(*b*) has, in relation to that premium payment, contravened or failed to comply with any requirement imposed by or under the Council Regulation, the Commission Regulation or these Regulations;

the Department may recover from him as a civil debt the whole or any part of the amount of the premium payment together with interest in respect of the period between the date on which any premium was paid and the date on which it was recovered calculated at a rate to be determined by the Department.

Offences

9.—(1) If any person wilfully obstructs an authorised person or an accompanying person who are acting under regulation 7, he shall be liable on

summary conviction to a fine not exceeding £400 or to imprisonment for a term not exceeding one month or both.

(2) If any person—

(*a*) knowingly or recklessly makes any false statement for the purpose of obtaining the payment to himself or any other person of a premium;

(*b*) wilfully makes a false entry in any book, account, record or other document relating to an application for premium or with intent to deceive makes use of any such entry which he knows to be false;

he shall be liable on summary conviction to a fine not exceeding £2,000 or to imprisonment for a term not exceeding three months or both or on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or both.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on 31st March 1989.

(L.S.) *D. A. J. Hirrell*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

Article 4a of Council Regulation (EEC) No. 805/68 (inserted by Council Regulation (EEC) No. 467/87) as amended by Council Regulation (EEC) No. 571/89 enables the payment to beef and veal producers of a special premium. General rules for the administration of the premium are laid down by Council Regulation (EEC) No. 468/87 as amended by Council Regulation (EEC) No. 572/89 and detailed rules by Commission Regulation (EEC) No. 714/89. The Community Scheme governed by these Community Regulations provides for payment to a producer of a premium in respect of each male animal which he has fattened up to a headage limit of 90 animals per producer in any calendar year.

These regulations provide for the implementation of those provisions of the Council and Commission Regulations in Northern Ireland. They make provision for those matters which are left to Member States by the Scheme and which are necessary for its proper implementation in Northern Ireland. A producer may apply during specified application periods for the payment of premium in respect of male animals which are at least 8 months old at the date of lodging an application (Regulation 3) and which are retained on his holding for a period of at least 2 months from that date (Regulation 6). Certain duties are placed on the applicant in relation to the handling and presentation on his holding of animals which are to be assessed for eligibility for premium and on the Department's appointed officer to mark the animals when eligibility has been established (Regulation 5).

Exceptionally in accordance with Article 11(1) of Commission Regulation (EEC) No. 714/89 a producer may, during the period 3rd April 1989 to 4th June 1989, apply for a premium payment in respect of male animals which are at least 9 months old on the date the application is lodged and which were kept on his holding for at least 2 months before that date. Animals which are the subject of such an application must be either collected for examination and marking in accordance with regulation 5(1) or, where they are being sent for immediate slaughter, they must be presented for examination by the Department at a place approved for that purpose.

The regulations also permit an authorised person acting on behalf of the Department to enter land used for the production of animals in respect of which premium has been claimed, to inspect and count cattle kept there and to inspect relevant documents and production facilities (Regulation 7) for the purpose of ensuring that the premium is only paid in appropriate circumstances. The regulations specify the circumstances in which a premium payment together with interest may be recovered by the Department (Regulation 8). They also create offences relating to the making of false statements (which are punishable on summary conviction by a fine not exceeding £2,000 or to imprisonment for a term not exceeding 3 months or both or on conviction on indictment to a fine or to imprisonment not exceeding 2 years or both) and wilful obstruction of an authorised person exercising the powers of entry (which is punishable on summary conviction by a fine not exceeding £400 or to imprisonment for a term not exceeding one month or both) (Regulation 9).

Application forms including explanatory notes are available from the Department's County Agricultural Executive Offices. Application forms in respect of animals sent to slaughterhouses for immediate slaughter are also available from the Department's Fatstock Offices at slaughterhouses.