SCOTTISH STATUTORY INSTRUMENTS

2003 No. 129

The Less Favoured Area Support Scheme (Scotland) Regulations 2003

Determination of Payable Area

9.—(1) Subject to regulation 10, the payable area shall be the total of the areas of eligible land of the applicant, adjusted in accordance with the following formula:–

$$P = E \times V$$

Where

P is the Payable Area;

E is the area of eligible land in each field or shared grazing in calendar year 2002; and

V is the hectare value for each field or shared grazing determined in accordance with paragraph (2).

(2) For the purpose of paragraph (1) the hectare value shall be the entry in the third column of Schedule 3 corresponding to the grazing category in the second column of that Schedule.

(3) For the purposes of paragraph (2) the grazing category of the land of the applicant shall be the entry in the second column of Schedule 3 corresponding to the stocking density in the first column of that Schedule, and the stocking density for that land shall be calculated in accordance with paragraphs (4) to (12).

(4) Subject to paragraph (12), the stocking density for each field which is not a shared grazing shall be calculated according to the following formula:–

$$L \div H$$

Where

S is the stocking density expressed in livestock units per hectare (LU/Ha);

L is the total number of eligible livestock units based on eligible agricultural activity undertaken in calendar year 2001; and

H is the total number of eligible hectares at 15th May 2001 determined in accordance with regulation 6 of the 2002 Regulations.

(5) Subject to paragraph (12), the stocking density for a shared grazing shall be calculated according to the provisions of paragraphs (6) to (8).

(6) The stocking density for a shared grazing shall be calculated according to the following formula:–

$$S = N \div 11$$

Where

S is the stocking density for the shared grazing expressed in livestock units per hectare (LU/Ha);

N is the total number of livestock units calculated in accordance with paragraph (7); and

H is the total area of the shared grazing, which shall be the sum of the areas of land attributable to each producer using the grazing.

(7) For the purposes of paragraph (6), the total number of livestock units is the aggregate of the numbers of livestock units for each producer using the grazing, calculated in accordance with the following formula:–

$$U = A \, x \, D$$

Where

U is the number of livestock units for that producer on the shared grazing;

A is the area of the shared grazing attributable to that producer on the basis of the proportion of the number of animals (which may include animals other than those which are livestock for the purposes of these Regulations) on the shared grazing, which belongs to that producer; and

D is the overall stocking density for that producer calculated according to paragraph (8).

(8) For the purposes of paragraph (7), the overall stocking density for each producer shall be calculated according to the following formula:–

$$D = Y \div (A + B)$$

Where

D is the overall stocking density for that producer;

Y is that producer's total number of eligible livestock units based on eligible agricultural activity undertaken in calendar year 2002;

A is the area of the shared grazing attributable to that producer on the basis of the proportion of the number of animals (which may include animals other than those which are livestock for the purposes of these Regulations) on the shared grazing, which belongs to that producer; and

B is the area of eligible land ascertained for that producer in accordance with regulation 6, other than land forming a shared grazing.

(9) Subject to paragraphs (10) and (11), the number of eligible livestock units shall be calculated using–

(a) where eligibility rests solely on livestock claimed under the Sheep Annual Premium Scheme, the greater of–

(i) the number of ewes and gimmers declared as the flock composition as part of a claim for Sheep Annual Premium; or

(ii) the lesser of the number of livestock claimed and the number of livestock quota units held;

(b) where eligibility rests solely on livestock claimed under the Suckler Cow Premium Scheme, the greater of–

(i) the number of cows declared as the herd composition as part of a claim for Suckler Cow Premium; or

(ii) the lesser of the number of livestock claimed and the number of livestock quota units held;

(c) where neither sub-paragraph (a) nor (b) applies, the number of livestock units determined by a decision of the Scottish Ministers using any, or a combination of any, of the following:–

(i) livestock described in sub-paragraph (a) above;

(ii) livestock described in sub-paragraph (b) above;

(iii) livestock units calculated from numbers of deer, goats or alpacas held throughout the relevant calendar year;

(iv) where the applicant has not claimed any subsidy under the Sheep Annual Premium Scheme, ewes, gimmers and hoggs declared separately as being held throughout the Scheme Year;

(v) where the applicant has not claimed any subsidy under the Suckler Cow Premium Scheme, suckler cows declared separately as being held throughout the Scheme Year.

(10) Where the applicant believes that the stocking density calculated for that applicant in accordance with paragraphs (4) or (5) to (8) based on eligible agricultural activity in calendar year 2001 was unrepresentatively low due to any sufficient reason established to the satisfaction of the Scottish Ministers, which may include the following:–

(i) the acquisition by the applicant of a holding carrying a low level of stock in calendar year 2001 where the applicant demonstrates to the satisfaction of the Scottish Ministers both a genuine commitment to increase the number of stock on the holding, and an increase in the number of stock on the holding since the date of acquisition of the holding;

(ii) participation by the applicant in an agri-environment scheme or an arrangement with the Scottish Ministers requiring reduction of the stocking levels of the applicant, other than an agri-environment scheme or an arrangement with the purpose of allowing suppressed grazing to recover, or otherwise compensating for the effects of past over-grazing, where that agri-environment scheme or arrangement has now ended, and the subsequent increase in stock of the applicant has not had a detrimental effect on the improvements achieved by the scheme or arrangement;

(iii) the culling of the stock of the applicant in the context of the control of an outbreak of an epizootic disease;

the applicant may request that the Scottish Ministers make a decision determining the number of livestock units to be used for the purposes of determining the stocking density in accordance with paragraphs (4) or (5) to (8).

(11) Where the Scottish Ministers have been requested to determine a number of livestock units under paragraph (10), they shall fix the number of livestock units to be used in the formulae in paragraphs (4) or (6) to (8).

(12) Where the Scottish Ministers are unable to calculate the stocking density for any part of the eligible land of the applicant using the formulae in paragraphs (4) or (6) to (8) because they have not been provided with sufficient information by the applicant to enable them to use the formulae in paragraphs (4) or (6) to (8), the Scottish Ministers shall, by a decision, fix a stocking density figure for that part of the land of the applicant.