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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 569**

**The Less Favoured Area Support  
Scheme (Scotland) Regulations 2005**

**Stocking density outwith maximum and minimum parameters**

**10.**—(1) Subject to paragraph (7), the following provisions of this regulation shall apply for the purposes of the Scheme 2006 payment where the stocking density calculated in accordance with paragraph (4) and Parts I and II of Schedule 1 using eligible livestock units calculated for the purpose of the Scheme 2005 payment, in accordance with paragraph (4) based on eligible agricultural activity in the calendar year 2004, and eligible land in the calendar year 2005 is either less than the minimum stocking density or greater than the maximum stocking density—

- (a) at the start of the retention period where eligibility rests on livestock claimed under the Sheep Annual Premium Scheme;
- (b) at the start of the retention period where eligibility rests on livestock claimed under the Suckler Cow Premium Scheme;
- (c) during the calendar year 2004 where eligibility rests on livestock declared separately in an application for less favoured area support;
- (d) on 31st March 2004, where eligibility rests on maintaining a dairy herd in the area referred to in paragraph (c) of the definition of “eligible agricultural activity” in regulation 2(1); or
- (e) in the opinion of the Scottish Ministers where eligibility must be determined from a combination of livestock described in sub-paragraphs (a) to (d) above.

(2) Where the stocking density calculated in accordance with paragraph (4) and Parts I and II of Schedule 1 based on eligible agricultural activity undertaken in calendar year 2004 is less than the minimum stocking density, the eligible land for the purposes of the calculation at regulation 9(1) shall be the number of hectares calculated in accordance with the following formula:—

$$E_1 = K \div M$$

Where

$E_1$  is the area of eligible land adjusted in accordance with this regulation;

$K$  is, subject to paragraph (6), the number of eligible livestock units based on eligible agricultural activity undertaken in calendar year 2004; and

$M$  is the minimum stocking density.

(3) Where the stocking density calculated in accordance with paragraph (4) and Parts I and II of Schedule 1 based on eligible agricultural activity undertaken in calendar year 2004 is greater than the maximum stocking density, the eligible land for the purposes of the calculation at regulation 9(1) shall be the number of hectares calculated in accordance with the following formula:—

$$E_2 = (F \times Q) \div (J \div F)$$

Where

$E_2$  is the area of eligible land adjusted in accordance with this regulation;

$F$  is the area of eligible land determined in accordance with regulation 9(1);

Q is the maximum stocking density; and

J is the number of eligible livestock units based on eligible agricultural activity undertaken in calendar year 2004.

(4) For the purposes of paragraphs (1), (2) and (3), 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, alpacas or llamas held throughout the relevant calendar year;
- (iv) where the applicant has not claimed any subsidy under the Sheep Annual Premium Scheme, ewes, gimmers and hogs 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; or
- (vi) where the applicant maintains a dairy herd in an area referred to in paragraph (c) of the definition of “eligible agricultural activity” in regulation 2(1), livestock units calculated from litres of milk quota held as at 31st March 2004.

(5) Where—

- (a) an applicant has land in more than one grazing category (as determined for the purposes of regulation 9); and
- (b) where eligible land, for the purpose of the calculation in regulation 9(1), for that applicant has been reduced under paragraph (2) or (3),

the Scottish Ministers shall apply that reduction in eligible land proportionately to the total of the eligible land in each grazing category for the purpose of the calculation in regulation 9(1).

(6) Where an applicant fails to achieve the minimum stocking density as a result of not being able to re-stock following slaughter of livestock under the Animal Health Act 1981(1) or in consequence of the service of a notice or an order being in place under the Foot-and-Mouth Disease Order 1983(2),

(1) 1981 c. 22.

(2) S.I.1983/1950, as amended by S.I. 1993/3119, S.I. 1995/2922 and further amended, as regards Scotland, by S.S.I. 2001/52, S.S.I. 2001/55, S.S.I. 2001/101 and S.S.I. 2001/390.

the Scottish Ministers may, by a decision, determine the total number of livestock units to be used for the purpose of the calculation at paragraph (2).

(7) Where the Scottish Ministers do not hold for an applicant any details of eligible livestock units, based on eligible agricultural activity in 2004 in relation to a Scheme 2005 payment—

- (a) the stocking density referred to in paragraph (1) shall be calculated in accordance with Parts I and II of Schedule 1 on the basis of eligible agricultural activity undertaken in calendar year 2005; and
- (b) the eligible livestock units referred to in paragraph (4) shall be calculated using the number of livestock units determined by a decision of Scottish Ministers using numbers of suckler cows, ewes, gimmers, hoggs, deer, goats, alpacas and llamas declared separately as being held throughout the 2005 calendar year and, where the applicant maintains a dairy herd in the area referred to in paragraph (c) of the definition of “eligible agricultural activity” in regulation 2(1), livestock units calculated from litres of milk quota held as at 31st March 2005.