

EXECUTIVE NOTE

THE LESS FAVOURED AREA SUPPORT SCHEME (SCOTLAND) AMENDMENT REGULATIONS 2006 SSI/2006/601

1. The above instrument is made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to negative resolution procedure and will come into force on 22 December 2006. The Regulations amend SSI No. 2005/569, as amended by SSI No. 2005/624.

Background

2. The European Commission Rural Development regulations make provision for a scheme of area based support for farmers in the Less Favoured Area (LFA). LFAs are those that suffer from a permanent natural disadvantage such as, for example, poor soil, adverse climate or difficult topography, that makes it difficult for them to compete on level terms with other areas. In Scotland 85% of agricultural land is classified as being within an LFA. The principal regulations, SSI 2005/569, came into force in December 2005 and provided for payment of Less Favoured Area Support (LFAS) in Scotland in Spring 2006.

3. LFA Support is one of number of optional measures to support rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) provided for in the Rural Development regulations, which also require all rural development measures to be applied in each region to be integrated into a single rural development plan. Each regional plan remains in force for the duration of the programming period. The current programming period began in 2000 and ends on 31 December 2006, and new rural development regulations will come into force on 1 January 2007.

4. Traditionally, LFASS has been paid to farmers each Spring for land they declared in the Single Application Form (SAF) as part of the IACS process the previous year. However, changes in the new EC regulation mean that from 2007 payment must be for land declared in May of the same year. This change, combined with the need to complete administrative checks before payments are made, means that the traditional LFAS payment timetable will, from 2007, move permanently to a later date each year.

5. The SSI provides for an LFAS 2006 supplementary payment under the current Rural Development programme, to help address the cash flow problems arising from this transition.

Description of the LFAS Scheme

6. The LFAS scheme has remained broadly the same since 2003 and is based on the principle that payments should be based on land quality. Since payments provide compensation for additional costs incurred as a result of natural disadvantage they must be related to agricultural activity. By and large the better the quality the land, the greater the agricultural activity and therefore the higher the costs that need to be compensated. Consequently the higher the quality of the land the higher the value of payments, although there are adjustments for location and stock mix. The scheme identifies eligible hectares according to designated grazing categories, followed by, if appropriate, adjustments to account for minimum or maximum stocking density restrictions, and the influence of cattle on the holding. Having arrived at the number of adjusted hectares, LFAS 2006 payment was made at a rate that reflected the degree of disadvantage.

7. For the reasons outlined above, the intention now is to make an additional payment of approximately 65% of the LFAS 2006 entitlement, to each applicant who was paid LFAS 2006, based on the LFAS 2006 application. Applicants will not be required to submit a further claim to qualify for supplementary payment.

8. The SSI includes the following changes to the principal regulations:

Regulation 2

“Supplementary payment” is defined in regulation 2 (1) as meaning a further payment of LFAS made to an applicant who has already applied for and been paid a scheme 2006 payment in accordance with the principal regulations

Regulation 8 (a) – Amount of supplementary payment

This sets out the formula to calculate the supplementary payment using the payable area, calculated in accordance with regulation 9 of the principal regulations, and the new rates inserted at regulation 12 (a) read with schedule 7(a). (Regulation 9 adjusts eligible land, as declared in the SAF 2005, to reflect land quality and environmental stocking mix).

Regulation 12 (a)

Identifies the payment rate, as set out in Schedule 7 (a), appropriate to the applicant’s land classification.

Regulation 13 (a)

Inserts an underpinning minimum supplementary payment amount which will ensure that no eligible applicant will receive less than £229.50.

Schedule 7 (a)

Inserts a new table of supplementary payment rates, in addition to the LFAS 2006 payment rates. Each rate is 65.57% of its LFAS 2006 equivalent (set out in Schedule 7, as amended) to ensure distribution of the £40 million which is the same proportion as the £61 million.

Effects of the Instrument

9. The SSI will enable the Scottish Executive to inject around £40 million, in addition to the £61 million they have already received, to LFA farming businesses in Scotland.

Consultation

10. The LFASS 2006 scheme arrangements were discussed and agreed with LFA stakeholders; stakeholder views have been taken into account in the development of the supplementary payment proposals.

Compliance with Parliamentary Procedures

11. To allow the instrument to come into force before the Christmas recess, and the payment process to start in the New Year, Article 10(2) of The Scotland Act 1998 (Transitory and Transitional Provisions) (Statutory Instruments) Order 1999 (No. 1096) is not being complied with. This provision normally requires at least 21 days to elapse between an instrument being laid and it coming into force. Instead use will be made of the facility offered by Article 10(3) and the Minister will write to the Presiding Officer of the Scottish Parliament to explain the circumstances of the non-compliance.

Periodicity of the Instrument

12. This Instrument is for LFASS 2006 only, and it is envisaged that the principal regulations, as amended, will remain in force until SEERAD introduces a new instrument for the 2007 LFA scheme.

Scottish Executive Environment and Rural Affairs Department
14 December 2006