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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 439**

**The Less Favoured Area Support  
Scheme (Scotland) Regulations 2007**

**Stocking density outwith maximum and minimum parameters**

**10.**—(1) Subject to paragraphs (4), (5) and (6), where the applicant was also the applicant for the purposes of the Scheme 2006 payment, the following provisions of this regulation apply where the stocking density calculated in accordance with regulation 10(4) of and Parts I and II of Schedule 1 to the 2005 Regulations for the purposes of the 2006 Scheme payment, was either less than the minimum stocking density or greater than the maximum stocking density.

(2) Where the stocking density calculated in accordance with regulation 10(4) of and Parts I and II of Schedule 1 to the 2005 Regulations for the purposes of the Scheme 2006 payment is less than the minimum stocking density, the eligible land for the purposes of the calculation at regulation 9(1) is the number of hectares calculated in accordance with the following formula:—

$$E_1 = (F \times S) \div M$$

Where—

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

F is the total area of eligible land of the applicant;

S is, subject to paragraphs (4), (5) and (6), the stocking density calculated for the applicant in accordance with regulation 10(4) of and Parts I and II of Schedule 1 to the 2005 Regulations for the purposes of the 2006 Scheme payment; and

M is the minimum stocking density.

(3) Where the stocking density calculated in accordance with regulation 10(4) of and Parts I and II of Schedule 1 to the 2005 Regulations for the purposes of the Scheme 2006 payment is greater than the maximum stocking density, the eligible land for the purposes of the calculation at regulation 9(1) is the number of hectares calculated in accordance with the following formula:—

$$E_2 = (F \times M) \div S$$

Where—

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

F is the total areas of eligible land of the applicant;

M is the maximum stocking density; and

S is, subject to paragraphs (4), (5) and (6), the stocking density calculated for the applicant in accordance with regulation 10(4) of Parts I and II of Schedule 1 to the 2005 Regulations for the purposes of the 2006 Scheme payment.

(4) 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 must 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).

(5) Where an applicant has not received a Scheme 2005 payment and a Scheme 2006 payment of less favoured area support, the stocking density for the purposes of the formulae at paragraphs (2) and (3) is the stocking density calculated in accordance with regulation 10(4) of and Parts I and II of Schedule 1 to the 2005 Regulations, for the purposes of the Scheme 2006 payment of the person who was the applicant in respect of the land in question, under the 2005 Regulations.

(6) Where an applicant received a Scheme 2005 payment but did not receive a Scheme 2006 payment, the stocking density for the purposes of the formulae at paragraphs (2) and (3) is the stocking density calculated in accordance with regulation 10(4) of and Parts I and II of Schedule 1 to the 2005 Regulations, for the purposes of the Scheme 2005 payment of the applicant.

(7) Where the stocking density for the purposes of the Scheme 2006 payment of either—

(a) the applicant under these Regulations; or

(b) where paragraph (5) applies, the person who was the applicant in respect of the land in question under the 2005 Regulations,

was less than the minimum stocking density, due to the culling of the stock on the land in question in the context of the control of an outbreak of an epizootic disease during or prior to 2004, the applicant may request that Scottish Ministers make a decision determining the stocking density to be used for the purposes of the formulae at paragraph (2).