

EXECUTIVE NOTE

THE LESS FAVOURED AREA SUPPORT SCHEME (SCOTLAND) AMENDMENT REGULATIONS 2011

SSI 2011/73

This note explains the need for the above SSI which was 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. The Regulations amend The Less Favoured Area Support Scheme (Scotland) Regulations 2010 No. 273 ('the principal Regulations') which came into force on 2 July 2010.

Policy Objectives

The purpose of the Regulations is to provide a basis, in domestic legislation, for changes to the Less Favoured Area Support Scheme ("LFASS") for the period 2011-2013. The main policy changes made by these Regulations are:

- Increased payment rates in the Standard Areas, from 2011;
- A single minimum stocking density threshold is to be replaced by four, one corresponding to each of the four grazing categories;
- Grazing categories, frozen for the 2007 – 2010 schemes as at 31 December 2006, can be allocated to further (uncategorised) LFA fields from the 2011 scheme.

These changes are intended to introduce a lower minimum stocking density threshold for those farming the poorest land which is not capable of carrying the stock levels needed to achieve the existing threshold (0.12). Additionally, increasing the minimum stocking density thresholds for those farming better land is expected to reduce payments to those on better land who have reduced levels of activity. Savings realised will be used to increase payments to those in the Standard fragility areas who have sustained higher levels of activity. (Rate increases have been limited to those in the Standard Areas because they did not benefit from significant increases made in 2009 and 2010 to those in the Fragile and Very Fragile areas.) The changes also allow further LFA land, which has not previously been given grazing category and therefore allowed into the LFASS Scheme, to be brought into the LFASS Scheme.

Background

LFASS is a Rural Development (RD) measure under Axis 2 (Article 36 (a) (ii) Council Regulation (EC) No 1698/2005) ("the Rural Development Regulation".) The EU legislation makes provision for a scheme of area based support for less favoured area ("LFA") farmers in recognition that they 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. The provision is implemented in Scotland, where 85% of agricultural land is classified as being within an LFA, as the LFASS. LFASS has a high profile and will be worth in the region of £65 million per year to around 13,000 farmers and crofters for the period 2011 - 2013.

The Scotland Rural Development Programme

LFA support is one of a number of optional measures to aid rural development, provided for in the RD Regulation. This requires all RD measures, to be applied within a region, to be integrated into a single rural development programme which must be considered and approved by the EC. Each regional programme remains in force for the duration of the programming period, which for the current programme runs from 2007 to 2013.

LFASS is part of the Scotland Rural Development Programme (“the SRDP”) , which supplements the EC legislative background by making detailed provision in relation to a range of measures, including LFASS. The SRDP was approved by the Rural Development Committee of the EC on 19 February 2008. It comprised a range of RD measures, including interim LFASS arrangements covering the period 2007 – 2009, in anticipation of a major EU wide LFA re-designation exercise which was due to have taken place in 2010.

Subsequently, LFA re-designation was postponed until 2014. For this reason, revised LFASS arrangements for the period 2010-2013 were announced in June 2009, and formed part of a modification to the SRDP which was approved by the EC in October 2009. The principal regulations, introduced in July 2010, provided the domestic basis for these arrangements. The latest changes cover the period 2011 – 2013, and formed part of a further SRDP modification which was approved on 01 February 2011.

Description of interim LFASS 2010 – 2013

The key features of the 2010 – 2013 interim scheme implemented in the principal Regulations are that:

- applicants must respect cross-compliance;
- it is again historically based, using updated historic values, including stocking densities, derived from area and livestock data declared by farmers in 2009;
- payments are payable to the occupier of the land who must be actively farming it for the majority of the year of application;
- payments are paid per hectare of eligible land, adjusted for LFASS grazing category (A – D) and any minimum or maximum stocking density restrictions; and
- Payment rates are varied according to LFASS Fragility area, i.e., Very Fragile, Fragile or Standard, according to the location of the applicants main farm.

Main changes made by these Regulations

Minimum stocking density

Regulations 3, 6 and 11 amend regulations 2, 9, and Schedule 4, of the principal Regulations to replace, from 2011, the single minimum stocking density threshold of 0.12, with four minimum stocking density thresholds ranging from 0.08 for grazing category A land (poorest quality), to 0.45 on grazing category D (highest capability) land.

The policy aim is, by providing a lower minimum stocking density threshold on Grazing category A land from 2011, to increase support to those farming the poorest land, which is not capable of carrying the stock levels needed to achieve the existing threshold (0.12). Additionally, by increasing the minimum stocking density thresholds for those farming Grazing Category B, C and D land, the aim is to reduce payments to those on better land who have reduced their levels of activity.

Eligible Land

Regulation 4 amends regulation 5 of the principal Regulations to allow further areas of LFA land to be eligible for LFASS for the Scheme Years 2011-2013. The new regulation 5(1)(a) allows LFA land which has not previously been allocated a grazing category, to be eligible for Scheme Year 2011-2013, in addition to previously eligible land. A grazing category will be allocated by the Scottish Ministers on the basis of the historic stocking density (calculated in accordance with regulation 9(4) and Parts I and II of Schedule 4 of the 2010 Regulations).

The previous restriction, that only LFA land which had a grazing category allocated prior to 1 January 2007 could be treated as eligible, was intended to avoid overspend but proved overly restrictive. The intention is, from the 2011 scheme, to allow further LFA fields, not previously categorised, to be awarded a grazing category.

Payment Rates

Regulation 12 substitutes a new Part I and Part II of Schedule 5 in the principal Regulations, and specifies new rates for payment of less favoured area support including increased rates payable to eligible applicants in the Standard Fragility areas.

The policy aim is to achieve a modest redistribution from farmers on better land who have become less active, to those in the Standard Fragility areas who have remained, or become, more active.

Other changes

Regulation 3 also amends regulation 2 of the principal Regulations to insert a reference to a new EU Regulation, Commission Regulation 65/2011, which replaces Commission Regulation 1975/2006 and applies from 1 January 2011. References to Commission Regulation 1975/2006 are updated to Commission Regulation 65/2011.

Regulation 10 amends Schedule 2 of the principal Regulations to insert a new land use code for area silage for stock feed (ASSF) for the purpose of the definition of “eligible land” in regulation 5(1) of the Regulations.

Regulation 7 amends regulation 10 of the principal Regulations as a result of a point made by the SLC. The amended regulation 10(3) makes it clear that it applies where the hectare multiplier (to be used for the purposes of regulation 10(1) of the principal Regulations) is, in the applicant’s opinion, unrepresentative of the usual enterprise mix due to culling. In those circumstances the applicant may request that the Scottish Ministers use either of the hectare multipliers in Schedule 8 of the principal Regulation for the purposes of regulation 10(1) of the principal Regulations. Further amendments are made to regulation 10 to take account of the case where regulation 10 (1) of the principal Regulations does not apply at all because cattle levels have fallen to below 10% due to culling. In that case the applicant may ask the Scottish Ministers to treat his application as if regulation 10 (1) applied and the Scottish Ministers may determine that either of the hectare multipliers are used for the purposes of the formula in paragraph (1).

Timing of the 2011 SSI

LFASS applications will be included in the Single Application Form (“SAF”) and made, on an administrative basis, during the period March to May 2011.

Financial Effects

The amendment SSI will enable the Scottish Government to process applications and make payments, under the 2011 – 2013 LFASS, amounting to around £64 million per annum. 50% of this expenditure will be co-funded from the European Agricultural Fund for Rural Development. The combined effects of the changes will be a moderate redistribution of funds, compared with LFASS 2010, in favour of more active farmers.

Consultation

The LFASS 2010 – 2013 interim arrangements, and further changes from 2011, were discussed at length and agreed with LFA stakeholders in the LFASS Technical Working Group.

Compliance with Parliamentary Procedures

Article 10(2) of The Scotland Act 1998 (Transitory and Transitional Provisions) (Statutory Instruments) Order 1999 (No. 1096) is being complied with.

Periodicity of the Instrument

It is envisaged that this Instrument will remain in force until 2013.

Scottish Government Rural Payments and Inspections Directorate