

## **POLICY NOTE**

### **THE LESS FAVOURED AREA SUPPORT SCHEME (SCOTLAND) AMENDMENT REGULATIONS 2016**

#### **SSI 2016/33**

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.

#### **Policy Objectives**

The instrument amends the Less Favoured Area Support Scheme (Scotland) Regulations 2010 ('the principal Regulations') which came into force on 2 July 2010. The purpose of the instrument is to amend the principal Regulations to allow farmers to whom land in a Less Favoured Area (LFA) is transferred but who have not previously received Less Favoured Area Support (LFAS) under the principal Regulations, to benefit from the historic values of the transferor for the purposes of being able to receive a payment of LFAS. This is a technical change, expected to benefit a small number of farmers, and is in line with the policy aim for those actively farming in the LFA to be able to qualify LFAS payments.

#### **Background**

Regulation (EU) No 1305/2013 ("the Rural Development Regulation") provides for an area based support scheme for Areas facing Natural Constraints (ANC) in recognition of the permanent natural disadvantage they face due to a range of biophysical criteria. Payments are to compensate farmers for income foregone and additional costs linked to the disadvantage in order to encourage the use of agricultural land, thus contributing to the maintenance of the countryside as well as to the maintenance and promotion of sustainable farming systems. However, pending implementation of a new ANC support scheme, the Rural Development Regulation enables continuation of the current LFAS scheme until 2017. Provision was made for this by the Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2015 and the Scottish Rural Development Programme 2015-2020.

Currently in Scotland 85% of agricultural land is classified as being within an LFA. LFAS is worth in the region of £65.5 million per year to around 11,300 farmers and crofters. The Rural Development Regulation permits Scotland to continue with the current LFA designations, and the LFAS eligibility criteria and payment calculations until 2018, when the scheme and designation must meet the new ANC framework as set out in Articles 31 and 32 of the Rural Development Regulation.

#### **Description of LFAS**

The key features of the current LFAS scheme as implemented by the principal Regulations are as follows:

- an applicant must actively farm eligible land for the majority of the qualifying year;

- it is historically based using values, including stocking densities, derived from area and livestock data declared by farmers in the applicable year. The applicable year is 2009, the first scheme year for a new entrant or, following an amendment in 2015, a 2013 historic base year was permitted to allow active farmers in the LFA who did not qualify for LFAS to receive payments, providing they met the applicable scheme conditions;
- payments are made per hectare of eligible land, adjusted by reference to an LFAS grazing category, an enterprise mix and minimum or maximum stocking densities;
- payment rates are varied according to LFAS Fragility area, i.e., Very Fragile, Fragile or Standard, according to the location of the applicant's main farm.

### **Main changes made by this Instrument**

Historic values are necessary to calculate an LFAS payment. The instrument amends the principal Regulations to allow farmers to whom land has been transferred in an LFA, but who do not already have historic values, to use the historic values of the transferor (which can be the person who transfers the holding, or the person who previously received an LFAS payment for the land). This will allow them to qualify for a payment, providing they meet all other applicable scheme eligibility criteria and conditions.

The instrument also includes a new land use code (in Schedule 2) to allow farmers to use chicory as eligible forage for the purposes of an LFAS claim.

### **Timing**

LFAS claims will be submitted by farmers and crofters as part of the Single Application Form (SAF) by 15 May 2016. The amendments made by the instrument are required to be in force to provide a legal basis for forthcoming verifications and inspections for applications received through the 2016 SAF. Payments in respect of claims received in 2016 will be made in 2017.

### **Financial Effects**

The changes made by this Instrument have no impact on the existing budget.

### **Consultation**

Stakeholders have supported the continuation of the current LFA scheme in the short term, and appreciate that the scheme and designation must be replaced by 2018. Stakeholders have also welcomed the new flexibility for farmers and crofters that previously could not access LFAS as announced by Ministers <http://news.scotland.gov.uk/News/Hill-farm-support-1726.aspx>

Stakeholders have been notified of the forthcoming amendment through the Areas facing Natural Constraints Working Group and are content that this is a technical change to further deliver the current policy aim of supporting active farmers in an LFA. The Scottish Government will review the LFAS Scheme in line with the Rural Development Regulation and will issue a separate consultation once the details and options for Scotland are clear.