

## **EXECUTIVE NOTE**

### **THE LESS FAVOURED AREA SUPPORT SCHEME (SCOTLAND) AMENDMENT REGULATIONS 2009 SSI/2009/412**

1. 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, and laid before Parliament on 25th November 2009. The instrument is subject to negative resolution procedure and will come into force on 18 December 2009. The Regulations (hereafter ‘the amendment regulations’) amend Scottish SI 2007 No. 439 (hereafter ‘the principal regulations’) which came into force on 28 September 2007, as amended.

#### **Policy Objectives**

2. The primary purpose of the SSI is to increase by 19% the payment rates for the LFA areas classified as “Fragile” and “Very Fragile”. This was part of a package announced by the Cabinet Secretary in June in response to one of Peter Cook’s recommendations to step up support for the hills. The decline is concentrated in the North and West which equates to the “Fragile” and “Very Fragile” areas within LFASS.
3. The SSI also updates certain EC legislative references which are a consequence of changes to the Integrated Administration and Control System (IACS) regulations, post CAP Health Check.

#### **Background**

4. LFASS is a Rural Development (RD) measure under Axis 2 of Council Regulation (EC) No 1698/2005 (hereafter the RD Regulation). The RD Regulation makes provision for a scheme of area based support for 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 Less Favoured Area Support Scheme (hereafter ‘LFASS’).
5. LFASS is part of the Scotland Rural Development Programme (hereafter the SRDP) which was approved by the Rural Development Committee of the EC on 19 February 2008. The Principal regulations came into force in September 2007, prior to EC approval, to allow LFASS to open to applications.
6. The LFASS payment rate changes for 2009, announced in June, formed part of a modification to the SRDP which was submitted to Brussels the following month and approved by the EU in October.

7. The EU legislation applies IACS principles to RD measures wherever possible. Following the CAP health Check, a new IACS regulation, Council Regulation (EC) No 73/2009 came into force on 1 January this year and repealed its predecessor, Regulation (EC) No 1782/2003.

### **SSI 2007/439 Regulation 2 (1)**

8. Amendment regulation 3(a): inserts in addition to the definition “Council regulation 1782/2003” (hereafter the old IACS regulations), a reference to the new IACS regulation, i.e. “73/2009” (hereafter the new IACS regulation).
9. Amendment regulation 3(b): The RD Regulation requires beneficiaries of LFA support to adhere to the IACS Cross Compliance requirements. Amendment regulation 3(b) alters the definition of “cross compliance” in principal regulation 2(1) so that the cross compliance provision in the old IACS regulation applies to any LFASS claims still to be paid under the LFASS 2007 and 2008; and the similar provision in the new IACS regulation, applies to claims made under LFASS 2009.
10. Amendment regulation 3 (c): Land potentially eligible for LFASS is LFA forage land in Scotland. The definition of “forage area” in principal regulation 2(1), rested on a definition contained within the section of the old IACS regulation concerned with bovine headage schemes (which certain Member States continued to operate until last year). Post CAP Health Check, the provision in question was dropped and there is no equivalent in the new IACS regulation. This is addressed in amendment regulation 3 (c) which amends the “forage area” definition in terms similar to those contained on the old IACS regulation.
11. Amendment regulation 3 (d): The term “holding” is used frequently throughout the principal regulations. Because of the read across from the RD to the IACS regulations, it was defined in principal regulation 2(1) as having the same meaning as Article 2(b) of the old IACS regulations. Amendment regulation 3 (d) amends this definition so that it refers to the equivalent provision in the new regulations

### **SSI 2007/439 Regulation 12**

12. Amendment regulation 4: Principal regulation 12 establishes the appropriate payment rate(s) for calculating an LFASS payment. Amendment regulation 4 inserts the changes necessary to reflect the corresponding changes in Schedule 3

### **SSI 2007/439 Schedule 1**

13. Amendment regulation 5: LFASS draws eligible land from information declared by applicants in field data sheets which they include with their Single Application Form (hereafter SAF) each year. Each field claimed in the SAF must include an eligible land use code. Schedule 1 of the principal regulations sets out the IACS land use codes compatible with LFASS eligible land.
14. From 2009, the SAF is also being used to gather certain data for the purposes of the agricultural census. The code “other crops for stock feed OCS” has been sub-divided into 3 separate codes: one for fodder beet; one for kale and cabbage; and one for the remainder. This sub-division is a census requirement, not needed for LFASS, but has

an impact on the principal regulations. Amendment regulation 5 makes the changes necessary to reflect the change.

### **SSI 2007/439 Schedule 3**

15. Amendment regulation 6: Schedule 3 contains two tables setting out the LFASS payment rates referred to in principal regulation 12. A new column 3 has been introduced to both tables to provide for the June increases (which apply to LFASS 2009 only).

### **Effects of the Instrument**

16. As can be seen, the Instrument provides a legal base for increases to some of the payment rates. This will see the total value of payments rise from £59 million under LFASS 2008, to £64 million under LFASS 2009. Those in the “Fragile” and “Very Fragile” parts of the LFA will benefit from the additional £5 million whilst those within the remaining “Standard” category will see no change. The instrument also updates certain defined terms in response to EU legislative change and, in one instance, a change to the SAF process for census purposes.

### **Consultation**

17. The rates increase followed the analysis of the public consultation on LFASS.

### **Compliance with Parliamentary Procedures**

18. Article 10(2) of The Scotland Act 1998 (Transitory and Transitional Provisions) (Statutory Instruments) Order 1999 is being complied with.

### **Periodicity of the Instrument**

19. It is envisaged that this Instrument will remain in force for the lifetime of the principal regulations

Scottish Executive Rural Affairs Department  
24 November 2009