

## SCOTTISH STATUTORY INSTRUMENTS

**2016 No. 33**

### AGRICULTURE

#### The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2016

|  |         |                   |
|--|---------|-------------------|
| Made                                   | - - - - | 20th January 2016 |
| Laid before the Scottish<br>Parliament | - - - - | 22nd January 2016 |
| Coming into force                      | - -     | 1st March 2016    |

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>(1)</sup> and all other powers enabling them to do so.

PROSPECTIVE

##### Citation and commencement

1. These Regulations may be cited as the Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2016 and come into force on 1st March 2016.

##### Commencement Information

**II** Reg. 1 in force at 1.3.2016, see [reg. 1](#)

##### Amendment of the Less Favoured Area Support Scheme (Scotland) Regulations 2010

2. The Less Favoured Area Support Scheme (Scotland) Regulations 2010<sup>(2)</sup> are amended in accordance with regulations 3 and 4.

3. After regulation 9 (stocking density outwith the minimum and maximum stocking density parameters)<sup>(3)</sup> insert—

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- (1) [1972 c.68](#). Section 2(2) was amended by the Scotland Act [1998 \(c.46\)](#) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act [2006 \(c.51\)](#) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act [2008 \(c.7\)](#), Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.
- (2) [S.S.I. 2010/273](#), amended by [S.S.I. 2011/73](#), [S.S.I. 2012/24](#), [S.S.I. 2013/9](#), [S.S.I. 2014/7](#) and [S.S.I. 2015/185](#).
- (3) Regulation 9 was last amended by [S.S.I. 2015/185](#).

**Status:** Point in time view as at 20/01/2016. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

### **“Calculation of less favoured area support following the transfer of a holding**

#### **9A.—(1) This paragraph applies—**

- (a) where there has been a transfer of all or part of a holding;
- (b) prior to that transfer, less favoured area support was granted to the transferor in relation to that holding or that part of the holding in respect of any Scheme Year commencing on or after 1st January 2010; and
- (c) following that transfer, the transferee—
  - (i) submits an application for less favoured area support in relation to that holding or that part of the holding in respect of the Scheme Year concerned or any Scheme Year following the Scheme Year concerned; and
  - (ii) has not previously received a payment of less favoured area support in respect of any Scheme Year commencing on or after 1st January 2010.

#### **(2) Where paragraph (1) applies, these Regulations apply subject to the following modifications—**

- (a) in regulation 8(4)(b) and (c) (determination of Unadjusted Payable Area), after “the applicant” insert “or, where regulation 9A(1) applies, the transferor”;
- (b) in regulation 9 (stocking density outwith the minimum and maximum stocking density parameters)—
  - (i) in relation to the formula in paragraph (2), for the definition of *S* substitute—
 

“*S* is the stocking density calculated for the applicant (or, where regulation 9A(1) applies, the transferor) in accordance with paragraph (4) and Parts I and II of Schedule 4 or, as the case may be, determined under paragraph (7).”;
  - (ii) in relation to the formula in paragraph (3), in the definition of *S*, after “the applicant” insert “or, where regulation 9A(1) applies, the transferor”;
  - (iii) in paragraph (4)(a), after “maintained by the applicant” insert “or, where regulation 9A(1) applies, the transferor”;
  - (iv) in paragraph (5)—
    - (aa) after “declared by the applicant” insert “or, where regulation 9A(1) applies, the transferor”; and
    - (bb) after “maintained by the applicant” insert “or, where regulation 9A(1) applies, the transferor”;
  - (v) in paragraph (8), in the definition of “applicable year”—
    - (aa) in sub-paragraphs (a) and (b), after “an applicant” insert “or, where regulation 9A(1) applies, the transferor”; and
    - (bb) in sub-paragraph (c), after “the applicant” insert “or, where regulation 9A(1) applies, the transferor”;
  - (vi) in paragraph (8), in sub-paragraphs (a) and (b) of the definition of “historic land area”, after “the applicant”, in each place where it occurs, insert “or, where regulation 9A(1) applies, the transferor”; and
  - (vii) in paragraph (9)—
    - (aa) after “an applicant” insert “or, where regulation 9A(1) applies, the transferor”; and

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(bb) in sub-paragraph (b), after “that applicant” insert “or, where regulation 9A(1) applies, that transferor”;

(c) in regulation 10 (enterprise mix)—

(i) in paragraph (1), after “the applicant” insert “or, where regulation 9A(1) applies, the transferor”; and

(ii) in paragraph (2)(b), after “an applicant” insert “or, where regulation 9A(1) applies, the transferor”; and

(d) in Schedule 4 (livestock units and stocking density), in Part I (calculation of livestock units), in the description of I and J in relation to the formula, after “an applicant” insert “or, where regulation 9A(1) applies, a transferor”.

(3) In this regulation, “transferor” means—

(a) the person who transfers the holding or part of the holding who, prior to the transfer, was granted less favoured area support in relation to that holding or that part of the holding in respect of any Scheme Year commencing on or after 1st January 2010; or

(b) a person other than a person mentioned in sub-paragraph (a) who, prior to the transfer, was granted less favoured area support in relation to that holding or that part of the holding in respect of any Scheme Year commencing on or after 1st January 2010.”.

4. In Schedule 2 (land use codes eligible for less favoured area support scheme)(4), in the table, insert after the entry for rough grazing the following entry—

|                         |        |
|-------------------------|--------|
| “Chicory for stock feed | CHIC”. |
|-------------------------|--------|

#### Commencement Information

I2 Reg. 2 in force at 1.3.2016, see [reg. 1](#)

I3 Reg. 3 in force at 1.3.2016, see [reg. 1](#)

I4 Reg. 4 in force at 1.3.2016, see [reg. 1](#)

St Andrew’s House,  
Edinburgh  
20th January 2016

*RICHARD LOCHHEAD*  
A member of the Scottish Government

(4) Schedule 2 was substituted by [S.S.I. 2015/185](#).

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PROSPECTIVE

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Less Favoured Area Support Scheme (Scotland) Regulations 2010 (“the principal Regulations”), which make provision for the purposes of the implementation of Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (“the Rural Development Regulation” - OJ L 347, 20.12.2013 p.487), in particular Articles 31 and 32, and make provision for less favoured area support (“LFAS”) payments for the period 2015 to 2017 under the Scottish Rural Development Programme (SRDP) (see <http://www.gov.scot/Topics/farmingrural/SRDP>). By 2018, the LFAS Scheme will be replaced by a new scheme for payments in respect of areas facing natural or other specific constraints in accordance with the Rural Development Regulation.

Regulation 3 inserts a new regulation 9A into the principal Regulations and modifies the application of regulations 8, 9 and 10 of, and Schedule 4 to, the principal Regulations. This is to make provision for the calculation of stocking density and the historic land area in respect of an application for LFAS in any Scheme Year following the transfer of all or part of a holding. For the purposes of calculating LFAS in respect of the transferee of the holding, the Scottish Ministers will be able to take into account the livestock numbers and the area of eligible land or number of forage hectares declared by the transferor in relation to an application for LFAS in respect of a Scheme Year prior to the transfer.

Regulation 4 amends Schedule 2 to the principal Regulations to insert a new land use code for chicory for stock feed (CHIC) for the purpose of the definition of “eligible land” in regulation 5(1) of the principal Regulations.

No business and regulatory impact assessment has been prepared in respect of these Regulations as there is no impact on the cost of business.

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