
STATUTORY INSTRUMENTS

2010 No. 167

AGRICULTURE, ENGLAND

The Hill Farm Allowance Regulations 2010

Made - - - - 29th January 2010
Laid before Parliament 2nd February 2010
Coming into force - - 24th February 2010

The Secretary of State is designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy of the European Community and measures relating to the promotion of rural development.

The Secretary of State makes the following Regulations under the powers conferred by that section.

Title, commencement and application

1. These Regulations—
 - (a) may be cited as the Hill Farm Allowance Regulations 2010;
 - (b) come into force on 24th February 2010;
 - (c) apply only in relation to holdings situated wholly or partly in England.

Commencement Information

II Reg. 1 in force at 24.2.2010, see [reg. 1\(b\)](#)

Interpretation

2. In these Regulations—

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the use of land for other agricultural purposes;

“breeding cow” means a suckler cow or a heifer;

“claim” means a claim for hill farm allowance made in a single payment scheme application;

(1) S.I. 1972/1811 and 1995/751.

(2) 1972 c. 68.

Changes to legislation: *The Hill Farm Allowance Regulations 2010 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

“claimed forage area” means land included as forage land in a single payment scheme application or related less favoured area allowance application;

“common land” means land registered as common land with grazing rights under the Commons Registration Act 1965⁽³⁾ or the Commons Act 2006⁽⁴⁾;

“Council Regulation 1257/1999” means Council Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations⁽⁵⁾;

“Council Regulation 1698/2005” means Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)⁽⁶⁾;

“Council Regulation 73/2009” means Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003⁽⁷⁾;

“disadvantaged land” (except in the expression “severely disadvantaged land”) means any area of land shown coloured blue on the England LFA maps;

“eligible forage area” means such part of the qualifying forage area that is severely disadvantaged land;

“the England LFA maps” has the meaning given in regulation 3;

“ewe” means a female sheep which was at least one year old on 1st January 2010, or had lambed by that date;

“forage area” has the same meaning as in Article 2(k) of Commission Regulation (EC) No 1120/2009 laying down detailed rules for the implementation of the single payment scheme provided for in Title III of Council Regulation 73/2009⁽⁸⁾;

“heifer” means a female bovine animal aged 8 months or over which has not yet calved;

“hill farm allowance” means the compensatory allowance payable in accordance with these Regulations, Article 36(a)(ii) of Council Regulation 1698/2005 and Chapter V of Title II of Council Regulation 1257/1999;

“holding” has the same meaning as in Article 2(b) of Council Regulation 73/2009;

“individual quota” has the same meaning as in Article 65(i) of Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)⁽⁹⁾;

“less favoured area” means any area of land shown coloured blue or pink on the England LFA maps;

“livestock unit” means a unit of measurement of livestock numbers, and each of the following constitutes a single livestock unit—

- (a) one suckler cow;
- (b) one heifer aged 24 months or over;
- (c) 1.67 heifers under the age of 24 months; and
- (d) 6.67 ewes;

“moorland” has the meaning given in regulation 4;

(3) 1965 c. 64.

(4) 2006 c. 26.

(5) OJ No L 160, 26.6.1999, p80, last amended by Council Regulation 1698/2005.

(6) OJ No L 277, 21.10.2005, p1, last amended by Council Regulation (EC) No 473/2009 (OJ No L 144, 9.6.2009, p3).

(7) OJ No L 30, 31.1.2009, p16.

(8) OJ No L 316, 2.12.2009, p1.

(9) OJ No L 299, 116.11.2007, p1, last amended by Council Regulation (EC) No 1140/2009 (OJ No L 312, 27.11.2009, p4).

“notional livestock density” means the number of livestock units per hectare of the claimant’s disadvantaged land and severely disadvantaged land, calculated in accordance with Schedule 1 (notional livestock density);

“other competent authority” means the Scottish Ministers, the Welsh Ministers or, in Northern Ireland, the Department of Agriculture and Rural Development;

“permanent pasture” means non-rotational land used for grass production (sown or natural) on a permanent basis (five years or longer);

“qualifying forage area” means the claimed forage area or, where regulation 8 applies, such part of that area as remains following deductions made to it in accordance with that regulation;

“related less favoured area allowance” means a compensatory allowance payable in relation to land situated in Northern Ireland, Scotland or Wales in accordance with Article 36(a)(i) or (ii) of Council Regulation 1698/2005 or Chapter V of Title II of Council Regulation 1257/1999;

“relevant animals” means, in relation to a claimant, the breeding cows and ewes determined as relevant animals in accordance with Schedule 2 (relevant animals);

“severely disadvantaged land” means any area of land shown coloured pink on the England LFA maps;

“single payment scheme” means the support scheme established under Title III of Council Regulation 73/2009;

“single payment scheme application” means an application to the single payment scheme submitted in 2009 in accordance with Article 19 of Council Regulation 73/2009 and Title II of Part II of [Commission Regulation \(EC\) No 1122/2009](#) laying down detailed rules for the implementation of Council Regulation 73/2009 as regards cross-compliance, modulation and the integrated administration and control system under the direct support schemes for farmers provided for in that Regulation, as well as for the implementation of Council Regulation (EC) [No 1234/2007](#) as regards cross-compliance under the support scheme provided for the wine sector⁽¹⁰⁾;

“suckler cow” has the same meaning as in Article 109(d) of Council Regulation 73/2009.

Commencement Information

I2 Reg. 2 in force at 24.2.2010, see [reg. 1\(b\)](#)

Meaning of the England LFA maps

3. In these Regulations “the England LFA maps” means—
- where a claimant agreed with the Secretary of State before 28th February 2009 that the Less Favoured Area Map of England 2009 will apply to the claim for hill farm allowance for 2010, the four volumes of maps numbered 1 to 4, each volume being marked “Less Favoured Area Map of England 2009”, marked with the date on which these Regulations are made, signed on behalf of the Secretary of State for Environment, Food and Rural Affairs and deposited at the offices of the Department for Environment, Food and Rural Affairs at Ergon House, Horseferry Road, London, SW1P 2AL;
 - otherwise, the three volumes of maps numbered 1 to 3, each volume being marked “Volume of maps of less-favoured farming areas in England”, dated 20th May 1991, signed and sealed by the Minister of Agriculture, Fisheries and Food and deposited at the offices of the Department for Environment, Food and Rural Affairs at Ergon House, Horseferry Road, London, SW1P 2AL.

⁽¹⁰⁾ OJ No L 316, 2.12.2009, p65.

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Commencement Information

I3 Reg. 3 in force at 24.2.2010, see [reg. 1\(b\)](#)

Meaning of moorland

4. In these Regulations “moorland” means—

- (a) where a claimant agreed with the Secretary of State before 28th February 2009 that the Moorland Map of England 2009 will apply to the claim for hill farm allowance for 2010, all the land shown coloured brown in the three volumes of maps entitled “Moorland Map of England 2009”, each volume being marked with the number of the volume, marked with the date on which these Regulations are made, signed on behalf of the Secretary of State for Environment, Food and Rural Affairs and deposited at the offices of the Department for Environment, Food and Rural Affairs at Ergon House, Horseferry Road, London, SW1P 2AL;
- (b) otherwise, all the land shown coloured pink in the three volumes of maps entitled “Moorland Map of England 2007”, each volume being marked with the number of the volume, dated 7th October 2007, signed on behalf of the Secretary of State for Environment, Food and Rural Affairs and deposited at the offices of the Department for Environment, Food and Rural Affairs at Ergon House, Horseferry Road, London, SW1P 2AL.

Commencement Information

I4 Reg. 4 in force at 24.2.2010, see [reg. 1\(b\)](#)

Payment of hill farm allowance

5.—(1) The Secretary of State must pay hill farm allowance for 2010 to a claimant who is eligible under regulation 6.

(2) The Secretary of State must only pay such allowance in respect of eligible forage area that does not exceed 700 hectares.

Commencement Information

I5 Reg. 5 in force at 24.2.2010, see [reg. 1\(b\)](#)

Eligibility for hill farm allowance

6.—(1) A claimant who satisfies the conditions in paragraph (2) is eligible for hill farm allowance.

(2) The conditions are that—

- (a) the claim relates to at least—
 - (i) ten hectares of severely disadvantaged land in England, or
 - (ii) one hectare of severely disadvantaged land in England, where the claimant is eligible for a related less favoured area allowance in another part of the United Kingdom;
- (b) subject to paragraph (5), the notional livestock density is not less than 0.15 on land that is—
 - (i) less favoured area in England, and

- (ii) in the claimant's holding; and
- (c) the land referred to in sub-paragraphs (a) and (b)—
 - (i) was available to be grazed or have a forage crop taken from it for a continuous period of seven months, starting on any date from 1st January 2009 to 31st March 2009 inclusive, and
 - (ii) during that seven-month period, was available to the claimant to be grazed or have a forage crop taken from it for a period, or periods in total, of at least four months.
- (3) But a claimant who is in breach of the agricultural undertaking is not eligible for hill farm allowance, unless the Secretary of State considers it reasonable in all the circumstances that the breach should not affect the claimant's eligibility.
- (4) Subject to Schedule 5 paragraph (8), a claimant who ceases to farm does not breach the undertaking referred to in paragraph (3) provided that at least ten hectares of the land in respect of which the undertaking was given continue to be used for the purposes of agriculture.
- (5) The Secretary of State may determine that a notional livestock density of less than 0.15 is sufficient given the circumstances of any particular case or group of cases.
- (6) A claimant must provide such information as the Secretary of State reasonably requires to enable a determination under paragraph (5) to be made.
- (7) The Secretary of State must notify the claimant of any such determination in writing or, where the determination is made in relation to more than one case, publish that determination in such way as the Secretary of State thinks fit.
- (8) For the purposes of paragraph (2)(c), land is taken to be available to be used for grazing or to have a forage crop taken from it if it is not so available only as a result of an agri-environment agreement.
- (9) In this regulation, "agri-environment agreement" means—
 - (a) an agreement made as part of a scheme made under Article 39 of Council Regulation 1698/2005, or
 - (b) such other agreement involving environmental commitments as the Secretary of State thinks fit.
- (10) In paragraph (3), the "agricultural undertaking" means the undertaking given by the claimant pursuant to Article 14(2) of Council Regulation 1257/1999 or Article 37(2) of Council Regulation 1698/2005 to pursue farming activity in a less favoured area for at least five years from the date of the first payment to that person in a claim made under these Regulations or any of the Hill Farm Allowance Regulations 2005 to 2009(11).

Commencement Information

I6 Reg. 6 in force at 24.2.2010, see [reg. 1\(b\)](#)

Amount of payment

- 7.—(1) The Secretary of State must pay hill farm allowance at the rates specified in this regulation.
- (2) For the qualifying forage area of land specified in column 1 of the table in Schedule 3 (payment rates per hectare), the rate payable per hectare is that specified in—
 - (a) column 2 of that table for the first 350 hectares, and

(11) [S.I. 2005/154](#), [2006/225](#) (as amended by [2006/518](#)), [2007/619](#), [2008/51](#) and [2009/138](#).

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- (b) column 3 for the next 350 hectares.
- (3) The amount of any payment must be increased by 5% if either condition A or condition B is met, and by 10% if both those conditions are met.
- (4) Condition A is that at least one hectare or 5% (whichever is the smaller) of the claimant's severely disadvantaged land—
 - (a) is planted with arable crops in respect of which the claimant is not receiving any other financial support, and
 - (b) was not converted from permanent pasture in or after 2004.
- (5) Condition B is that at least one hectare or 5% (whichever is the smaller) of the claimant's severely disadvantaged land—
 - (a) is planted with woodland in respect of which the claimant is not receiving any other financial support, and
 - (b) was not converted from permanent pasture in or after 2004.
- (6) The Secretary of State may also increase the amount of any payment by up to 10% if the fund available for hill farm allowance is greater than anticipated by the Secretary of State because—
 - (a) the amount of eligible forage area in respect of which such allowance is payable is smaller than anticipated, or
 - (b) the budget allocation for the Rural Development Programme for England 2007-2013, or that part of that budget available for hill farm allowance, is or is likely to be greater than anticipated.
- (7) The Secretary of State may decrease the amount of any payment by up to 10% if that fund is smaller than anticipated by the Secretary of State because—
 - (a) the amount of eligible forage area in respect of which such allowance is payable is greater than anticipated, or
 - (b) the budget allocation for the Rural Development Programme for England 2007-2013, or that part of that budget available for hill farm allowance, is or is likely to be smaller than anticipated.
- (8) Any increase applied under paragraph (6) or decrease applied under paragraph (7) must be applied in the same proportion to each claimant's payment.
- (9) In paragraphs (4) and (5), "other financial support" does not include financial support from the single payment scheme.
- (10) The "Rural Development Programme for England 2007-2013" is the Programme for England approved by the European Commission on 7th December 2007 under Article 18(4) of Council Regulation 1698/2005.

Commencement Information

17 Reg. 7 in force at 24.2.2010, see [reg. 1\(b\)](#)

Deductions from claimed forage area

- 8.** Schedule 4 (availability of individual quotas: deductions from claimed forage area) has effect.

Commencement Information

18 Reg. 8 in force at 24.2.2010, see [reg. 1\(b\)](#)

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Holdings situated partly outside England

9. Schedule 5 (holdings situated partly outside England) has effect.

Commencement Information

19 Reg. 9 in force at 24.2.2010, see [reg. 1\(b\)](#)

29th January 2010

Huw Irranca-Davies
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

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SCHEDULE 1

Regulation 2

Notional Livestock Density

Commencement Information

I10 Sch. 1 in force at 24.2.2010, see [reg. 1\(b\)](#)

Notional livestock density is calculated as follows—

$$NLD = (A - B) \div C$$

where—

“A” is the number, expressed in livestock units, of relevant animals on the claimant’s qualifying forage area;

“B” is the number of livestock units grazed on so much of the claimant’s qualifying forage area as does not fall within a less favoured area (“non-LFA land”). For this purpose, any non-LFA land other than common land is treated as being grazed by 1.8 livestock units per hectare and any non-LFA land which is common land is treated as being grazed by 1.0 livestock units per hectare;

“C” is the area of the claimant’s disadvantaged land and severely disadvantaged land expressed in hectares;

“NLD” is the notional livestock density.

SCHEDULE 2

Regulation 2

Relevant Animals

Breeding cows

- 1.—(1) Subject to paragraph 3, a breeding cow is a relevant animal if—
- (a) it is declared in, or subsequently accepted by the Secretary of State as being included in, the claimant’s claim;
 - (b) it is of a meat breed, or is a crossbreed, or the offspring of a crossbreed;
 - (c) it is registered in accordance with Schedule 2 to the Cattle Identification Regulations 2007⁽¹²⁾;
 - (d) throughout a period of six consecutive months starting on any date from 1st July 2009 to 31st December 2009 inclusive—
 - (i) it was part of a herd used for rearing calves for meat production only;
 - (ii) it was owned by, or leased under a written leasing agreement to, the claimant;
 - (iii) the claimant had economic responsibility for it; and
 - (iv) it was kept on the claimant’s holding.
- (2) The condition in sub-paragraph (1)(d)(iv) continues to be met if—
- (a) the breeding cow was replaced with another one during that six-month period;

⁽¹²⁾ S.I. 2007/529, to which there are amendments not relevant to these Regulations.

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- (b) the conditions in sub-paragraph (1)(a) to (d)(iii) are met in respect of that replacement; and
 - (c) that replacement was kept on the claimant's holding for the remainder of that period.
- (3) In this paragraph—
- (a) “crossbreed” means a bovine animal with at least one parent of a meat breed;
 - (b) “meat breed” means any bovine breed not listed in Annex IV to [Commission Regulation \(EC\) No 1121/2009](#) laying down detailed rules for the application of Council Regulation 73/2009 as regards the support schemes for farmers provided for in Titles IV and V thereof⁽¹³⁾.

Commencement Information

I11 Sch. 2 para. 1 in force at 24.2.2010, see [reg. 1\(b\)](#)

2.—(1) For the purposes of paragraph 1(1)(d)(iii), a claimant had economic responsibility for a breeding cow if, in relation to that cow, the claimant—

- (a) was its keeper;
- (b) made the final decisions regarding, and paid for, its feeding, bedding, housing and veterinary requirements; and
- (c) was in possession of its cattle passport.

(2) In sub-paragraph (1), “cattle passport” and “keeper” have the same meaning as in regulation 2(1) of the Cattle Identification Regulations 2007.

Commencement Information

I12 Sch. 2 para. 2 in force at 24.2.2010, see [reg. 1\(b\)](#)

3. Where—

- (a) the claimant's breeding cows which meet the conditions in paragraph 1(1) include heifers, and
- (b) the number of such heifers, expressed in livestock units, exceeds 40% of the total number of breeding cows, expressed in livestock units, which meet those conditions,

the number of heifers which are taken to be relevant animals are reduced so that they are no more than 40% of the total number of livestock units.

Commencement Information

I13 Sch. 2 para. 3 in force at 24.2.2010, see [reg. 1\(b\)](#)

Commencement Information

I11 Sch. 2 para. 1 in force at 24.2.2010, see [reg. 1\(b\)](#)

I12 Sch. 2 para. 2 in force at 24.2.2010, see [reg. 1\(b\)](#)

I13 Sch. 2 para. 3 in force at 24.2.2010, see [reg. 1\(b\)](#)

⁽¹³⁾ OJ No L 316, 2.12.2009, p27.

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Ewes

4. A ewe is a relevant animal if—
- (a) it is declared in, or subsequently accepted by the Secretary of State as being included in, the claimant’s claim;
 - (b) the requirements of articles 23, 24 and 26 of the Sheep and Goats (Records, Identification and Movement) (England) Order 2007(14) (which relate to holding registers, movement documents and inventories) were complied with in relation to that ewe;
 - (c) it formed part of a flock kept on the holding for a consecutive period of 100 days starting on any day from 1st January 2009 to 22nd September 2009 inclusive; and
 - (d) it was, throughout that consecutive period, owned by, or leased under a written leasing agreement to, the claimant.

Commencement Information
I14 Sch. 2 para. 4 in force at 24.2.2010, see [reg. 1\(b\)](#)

SCHEDULE 3

Regulation 7(2)

Payment Rates per Hectare

Commencement Information
I15 Sch. 3 in force at 24.2.2010, see [reg. 1\(b\)](#)

<i>Column 1</i>	<i>Column 2 (For the first 350 hectares)</i>	<i>Column 3 (For the next 350 hectares)</i>
Severely disadvantaged land (other than moorland or common land)	£37.34	£18.67
Severely disadvantaged land (moorland or common land)	£14.14	£7.07

SCHEDULE 4

Regulation 8

Availability of Individual Quotas: Deductions from Claimed Forage Area

1. If an individual quota was available to a claimant on 1st April 2009, the claimed forage area is subject to the deductions specified in paragraph 4.

(14) S.I. 2007/3493.

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Commencement Information

I16 Sch. 4 para. 1 in force at 24.2.2010, see [reg. 1\(b\)](#)

2. The deductions are calculated by reference to the number of livestock units deemed to constitute the dairy herd kept by the claimant on land in England (“the notional dairy herd”), determined in accordance with paragraph 3.

Commencement Information

I17 Sch. 4 para. 2 in force at 24.2.2010, see [reg. 1\(b\)](#)

3. The notional dairy herd is calculated as follows—

$$TLU = IQ \div 5730$$

where—

“IQ” is the individual quota (expressed in litres) available to the claimant in relation to the claimant’s land in England;

“TLU” is the number of livestock units in the notional dairy herd; and

“5730” is the number of litres of milk deemed to be equivalent to the annual production of one dairy cow.

Commencement Information

I18 Sch. 4 para. 3 in force at 24.2.2010, see [reg. 1\(b\)](#)

4. The deductions are made as follows—

(a) U hectares are deducted from A, where U is equal to the lesser of—

(i) $TLU \div 1.8$, and

(ii) A;

(b) if TLU is greater than 1.8U, V hectares are deducted from B, where V is equal to the lesser of—

(i) $TLU - 1.8U$, and

(ii) B;

(c) If TLU is greater than 1.8U + V, W hectares are deducted from C, where W is equal to the lesser of—

(i) $(TLU - (1.8U + V)) \div 1.4$, and

(ii) C;

(d) if TLU is greater than 1.8U + V + 1.4W, X hectares are deducted from D, where X is equal to the lesser of—

(i) $TLU - (1.8U + V + 1.4W)$, and

(ii) D;

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(e) If TLU is greater than $1.8U + V + 1.4W + X$, Y hectares are deducted from E, where Y is equal to the lesser of—

(i) $TLU - (1.8U + V + 1.4W + X)$, and

(ii) E;

(f) If TLU is greater than $1.8U + V + 1.4W + X + Y$, Z hectares are deducted from F, where Z is equal to the lesser of—

(i) $(TLU - (1.8U + V + 1.4W + X + Y)) \div 1.4$, and

(ii) F;

where—

“A” is the number of hectares of claimed forage area not within a less favoured area which is not common land;

“B” is the number of hectares of claimed forage area not within a less favoured area which is common land;

“C” is the number of hectares of claimed forage area within the disadvantaged land;

“D” is the number of hectares of claimed forage area within the disadvantaged land that is either Moorland or Common Land;

“E” is the number of hectares of claimed forage area within the severely disadvantaged land that is either Moorland or Common Land;

“F” is the number of hectares of claimed forage area within the severely disadvantaged land; and

“TLU” is the total number of livestock units in the notional dairy herd.

Commencement Information

I19 Sch. 4 para. 4 in force at 24.2.2010, see [reg. 1\(b\)](#)

SCHEDULE 5

Regulation 9

Holdings Situated Partly Outside England

Agency arrangements

1. For holdings situated partly in Scotland, the Secretary of State and the Scottish Ministers may arrange for—

(a) the Secretary of State’s functions under these Regulations to be exercised on the Secretary of State’s behalf by the Scottish Ministers, and

(b) the Scottish Ministers’ functions under any regulations made by them in implementation of Article 36(a)(i) or (ii) of Council Regulation 1698/2005 or Chapter V of Title II of Council Regulation 1257/1999 to be exercised on their behalf by the Secretary of State.

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Commencement Information

I20 Sch. 5 para. 1 in force at 24.2.2010, see [reg. 1\(b\)](#)

2. For holdings situated partly in Wales, the Secretary of State and the Welsh Ministers may arrange for—

- (a) the Secretary of State’s functions under these Regulations to be exercised on the Secretary of State’s behalf by the Welsh Ministers, and
- (b) the Welsh Ministers’ functions under any regulations made by them in implementation of Article 36(a)(i) or (ii) of Council Regulation 1698/2005 or Chapter V of Title II of Council Regulation 1257/1999 to be exercised on their behalf by the Secretary of State.

Commencement Information

I21 Sch. 5 para. 2 in force at 24.2.2010, see [reg. 1\(b\)](#)

3. For holdings situated partly in Northern Ireland, the Secretary of State and the Department of Agriculture and Rural Development may arrange for—

- (a) the Secretary of State’s functions under these Regulations to be exercised on the Secretary of State’s behalf by the Department of Agriculture and Rural Development, and
- (b) the functions of the Department of Agriculture and Rural Development under any regulations made by it in implementation of Article 36(a)(i) or (ii) of Council Regulation 1698/2005 or Chapter V of Title II of Council Regulation 1257/1999 to be exercised on its behalf by the Secretary of State.

Commencement Information

I22 Sch. 5 para. 3 in force at 24.2.2010, see [reg. 1\(b\)](#)

4. An arrangement made under paragraph 1, 2 or 3—

- (a) must be in writing, signed by or on behalf of the Secretary of State and either the Scottish Ministers, the Welsh Ministers or the Department of Agriculture and Rural Development (as appropriate), and
- (b) may be subject to conditions (including conditions as to costs).

Commencement Information

I23 Sch. 5 para. 4 in force at 24.2.2010, see [reg. 1\(b\)](#)

Commencement Information

I20 Sch. 5 para. 1 in force at 24.2.2010, see [reg. 1\(b\)](#)

I21 Sch. 5 para. 2 in force at 24.2.2010, see [reg. 1\(b\)](#)

I22 Sch. 5 para. 3 in force at 24.2.2010, see [reg. 1\(b\)](#)

I23 Sch. 5 para. 4 in force at 24.2.2010, see [reg. 1\(b\)](#)

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Set-off

5. In relation to a holding situated partly outside England, the amount of any sum payable by the Secretary of State by way of hill farm allowance or related less favoured area allowance, whether as principal or on behalf of any other competent authority, may, without prejudice to the amount of any sum payable by the Secretary of State to any other competent authority, be set off against the amount of any sum recoverable from the claimant by the Secretary of State, whether as principal or on behalf of such other competent authority.

Commencement Information

I24 Sch. 5 para. 5 in force at 24.2.2010, see [reg. 1\(b\)](#)

Apportionment of livestock units

6. Where a holding in respect of which a claim has been made is situated partly outside England, the number of livestock units taken to be grazed on that part of the holding situated in England is calculated as follows—

$$N = (TLU \times X) \div Y$$

where—

- “X” is the claimed forage area in hectares of that part of the holding situated in England;
- “Y” is the total claimed forage area in hectares of that holding;
- “TLU” is the total number of livestock units grazed on that holding; and
- “N” is the number of livestock units taken to be grazed on that part of the holding situated in England.

Commencement Information

I25 Sch. 5 para. 6 in force at 24.2.2010, see [reg. 1\(b\)](#)

Apportionment of individual quota

7. Where a holding in respect of which a claim has been made is situated partly outside England, the individual quota which is treated as available to a claimant in relation to the claimant’s land in England is calculated as follows—

$$IQ = (TIQ \times X) \div Y$$

where—

- “X” is the claimed forage area in hectares of that part of the holding situated in England;
- “Y” is the total claimed forage area in hectares of that holding;
- “TIQ” is the total individual quota available to the claimant in respect of that holding; and
- “IQ” is the individual quota which is treated as available in respect of that part of the holding situated in England.

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Commencement Information

I26 Sch. 5 para. 7 in force at 24.2.2010, see [reg. 1\(b\)](#)

Apportionment of area of land used for the purposes of agriculture

8. Where a holding in respect of which a claim has been made is situated partly outside England, the area of land which must be used for the purposes of agriculture under regulation 6(4) is reduced by a percentage equal to the percentage of the land which is outside England.

Commencement Information

I27 Sch. 5 para. 8 in force at 24.2.2010, see [reg. 1\(b\)](#)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations partially implement Council Regulation (EC) No 1698/2005 (OJ No L 277, 21.10.05, p1) on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and Council Regulation (EC) No 1257/1999 (OJ No L 160, 26.6.99, p80) on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF), in so far as those Council Regulations relate to less favoured areas.

These Regulations define the conditions of eligibility for hill farm allowance (regulations 5 and 6). Such allowance is payable only in relation to severely disadvantaged land (and for not more than 700 hectares), at the rates set out in regulation 7 and Schedule 3. Severely disadvantaged land means any area of land shown coloured pink on the England LFA maps.

The information recorded in the “Volume of maps of less-favoured farming areas in England” and the “Moorland Map of England 2007” has been updated and recorded respectively in the “Less Favoured Area Map of England 2009” and the “Moorland Map of England 2009”. Regulations 3 and 4 explain how eligibility will be calculated by reference to those maps.

These Regulations apply only in relation to holdings situated wholly or partly in England. Schedule 5 makes provision for holdings situated partly outside England.

Copies of the Rural Development Programme for England 2007-2013 are available at <http://www.defra.gov.uk/corporate/publications/pubcat/rural.htm#erdp> and from the Department for Environment, Food and Rural Affairs, Information Resource Centre, Ergon House, Horseferry Road, London SW1P 2AL.

An impact assessment has not been prepared because the changes to the existing hill farm allowance scheme introduced by these Regulations will have a negligible additional impact on business and the voluntary sector.

Changes to legislation:

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[View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 28 Sch. 1 Pt. 1](#)