

SCOTTISH STATUTORY INSTRUMENTS

2007 No. 439

AGRICULTURE

The Less Favoured Area Support Scheme (Scotland) Regulations 2007

Made - - - - 27th September 2007
Laid before the Scottish Parliament - - - - 27th September 2007
Coming into force - - 28th September 2007

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972^{M1} and all other powers enabling them to do so.

Marginal Citations

M1 1972 c. 68. Section 2(2) was amended by the [Scotland Act 1998 \(c. 46\)](#), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

Citation, commencement and application

F11.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Interpretation

F12.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Applications for payment of less favoured area support

F13.

Changes to legislation: There are currently no known outstanding effects for the The Less Favoured Area Support Scheme (Scotland) Regulations 2007. (See end of Document for details)

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Eligibility for payment of less favoured area support

F14.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Payment of less favoured area support

F15.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Eligible land

F16.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Transfer of a holding

F17.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Amount of less favoured area support

F18.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Determination of Payable Area

F19.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Stocking density outwith maximum and minimum parameters

F110.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Enterprise mix

F111.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Rate of Payment of less favoured area support

F112.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Minimum payment

F113.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Powers of authorised persons

F114.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Assistance to authorised persons

F115.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Withholding or recovery of less favoured area support

F116.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Guidance

F116A.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Rate of interest

F117.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Cross-border holdings

F118.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Offences

F119.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Penalties

F120.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Time limit for prosecutions

F121.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Offences by bodies corporate

F122.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Appeal against decision as to eligibility of holding

F123.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Review

F124.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Amendment of the Agricultural Subsidies (Appeals) (Scotland) Regulations 2004

F125.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

Revocation and savings provisions

26.—^{F1}(1)

(2) Notwithstanding paragraph (1), in respect of a Scheme 2005 payment or a Scheme 2006 payment, within the meaning of the 2005 Regulations, the 2005 Regulations shall continue to have effect as if those Regulations had not been revoked.

F1 Regulations revoked (except reg. 26(2)) (2.7.2010) by [The Less Favoured Area Support Scheme \(Scotland\) Regulations 2010 \(S.S.I. 2010/273\)](#), regs. 1(1), **26(1)** (with regs. 1(3), 26(2))

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Edinburgh

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Changes to legislation: There are currently no known outstanding effects for the The Less Favoured Area Support Scheme (Scotland) Regulations 2007. (See end of Document for details)

^{F1}SCHEDULE 1

Regulation 6(3)

LAND USE CODES ELIGIBLE FOR LESS FAVOURED AREA SUPPORT SCHEME

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^{F1}SCHEDULE 2

Regulations 9(2) and 12

GRAZING CATEGORY: HECTARE VALUES

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^{F1}SCHEDULE 3

Regulation 12

RATES OF PAYMENT FOR LESS FAVOURED AREA SUPPORT

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^{F1}SCHEDULE 4

Regulation 12(4)

FRAGILITY CATEGORIES

.....

^{F1}SCHEDULE 5

Regulation 18

AGENCY ARRANGEMENTS AND CROSS BORDER HOLDINGS

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which replace the Less Favoured Area Support Scheme (Scotland) Regulations 2005 (“the 2005 Regulations”), make provision for the purposes of implementation of Council Regulation (EC) No. 1698/2005 on support for rural development from the European Agricultural Fund for Rural Development and Commission Regulations (EC) Nos. 1974/2006 and 1975/2006 laying down detailed rules for the application of Council Regulation No. 1698/2005. Regulation 1689/2005 will preserve, until 2010, elements of Regulation (EC) 1257/1999 which apply to Less Favoured Area Support.

They apply to holdings in respect of which the Scottish Ministers are the competent authority under the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2005 (regulation 1(2)).

Applications for less favoured area support ("LFAS") are to be made to the Scottish Ministers on a date which they shall determine each year. Failure to meet the deadline will result in reduction of the payment of support (regulation 3).

Eligibility for payment of LFAS is dependent upon the applicant meeting the criteria set out in regulation 4. It can only be paid to an applicant who actively farms eligible land ('actively farms' is defined in regulation 2(1) and 'eligible land' is defined in regulation 6). No payment will be made where the amount of eligible land is less than 3 hectares (regulation 5). There is provision at regulation 7 to determine to whom payment should be made where a holding is transferred during a Scheme Year.

LFAS is paid for eligible hectares on farms in Scottish less favoured areas at specified rates (regulations 8 and 12). The rate is fixed according to the grazing category (regulation 9 and Schedule 2) and the fragility of the parish in which the main farm of the applicant lies (regulation 12 and Schedule 4).

The area of land on which LFAS is paid is normally the area of eligible land which the applicant has, adjusted in accordance with a formula set out in regulation 9(1). The manner in which the area of eligible land is adjusted will depend on the grazing category of that land (regulation 9(2)). The grazing category is allocated according to the historical stocking density of the applicant's land (regulation 9(3)).

In previous years a separate stocking density was calculated annually, and was based upon eligible land and eligible agricultural activity in the previous year. For the 2007 scheme and beyond, historic stocking density values, calculated in accordance with the 2005 Regulations, will be used. Where the applicant has a stocking density which is above the maximum stocking density or below the minimum stocking density, then the area of land on which LFAS is to be paid is instead calculated in accordance with formulae set out in regulation 10. The maximum and minimum stocking densities are laid out in regulation 2(1). There are alternative arrangements at regulations 10(4) and 10(5) for those who are actively farming eligible land but did not receive a payment under the 2005 Regulations. There is provision at regulation 10(6) to allow the Scottish Ministers to determine the stocking density where an applicant has not been able to achieve the minimum stocking density because of slaughter in consequence of foot and mouth disease. Where more than 10% of the livestock maintained by the applicant under the 2005 Regulations was made up of cattle, the area of land on which LFAS will be paid to the applicant under the 2007 Scheme will be increased in accordance with the adjustment set out in regulation 11 read with Schedule 6 of the 2005 Regulations.

Regulation 13 fixes a minimum payment of £385. Regulation 14 contains powers of enforcement. Regulation 16 provides for withholding or recovery of LFAS where there is a breach of the rules of the LFAS Scheme for the years 2007, 2008 and 2009. Regulations 19 to 22 deal with offences and penalties.

Regulations 23 and 24 deal with an applicant's right of appeal against decisions taken by the Scottish Ministers as regards eligibility of the holding. Regulation 25 makes amendments to the Agricultural Subsidies (Appeals) (Scotland) Regulations 2004 to provide for an applicant's right of appeal against decisions taken by the Scottish Ministers on other specified grounds.

Regulation 26 revokes the 2005 Regulations (and also those instruments which amended the 2005 Regulations) (regulation 26(1)). Regulation 26 also makes a saving provision to ensure that the 2005 Regulations continue to apply to Scheme 2005 payments and Scheme 2006 payments made under the 2005 Regulations (regulation 26(2)).

No Regulatory Impact Assessment has been prepared in respect of these Regulations.

Changes to legislation:

There are currently no known outstanding effects for the The Less Favoured Area Support Scheme (Scotland) Regulations 2007.