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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 273**

**The Less Favoured Area Support  
Scheme (Scotland) Regulations 2010**

**PART I  
GENERAL**

**Citation, commencement, extent and application**

1.—(1) These Regulations may be cited as the Less Favoured Area Support Scheme (Scotland) Regulations 2010 and come into force on 2nd July 2010.

(2) These Regulations extend to Scotland only.

(3) These Regulations apply to holdings in respect of which the Scottish Ministers are the competent authority, in accordance with the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2009(1)<sup>F1</sup> or the Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014].

**Textual Amendments**

**F1** Words in [reg. 1\(3\)](#) inserted (28.2.2019) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments and Revocations\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/391\)](#), [regs. 1\(1\)](#), **21**

**Commencement Information**

**I1** Reg. 1 in force at 2.7.2010, see [reg. 1\(1\)](#)

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

<sup>F2</sup>  
...

“alpaca” means any alpaca of any breed which is kept by way of business for the primary purpose of fibre production;

[<sup>F3</sup>“applicable year” is to be construed in accordance with regulation 9(8);]

“applicant” means a person who has made an application for less favoured area support;

<sup>F4</sup>  
...

“authorised person” means a person who is authorised by the Scottish Ministers, either generally or specifically, to act in relation to matters arising under these Regulations;

“beef cow” means a female bovine animal which, in the opinion of the Scottish Ministers, is a breeding cow used primarily to produce calves for the purpose of beef production and aged 20 months or over;

“Council Regulation 1698/2005” means Council Regulation (EC) No. 1698/2005 on support for rural development from the European Agricultural Fund for Rural Development (EAFRD)(2);

[<sup>F5</sup>“Commission Regulation 1975/2006” means Commission Regulation (EC) No 1975/2006 laying down detailed rules for the implementation of Council Regulation No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures;]

<sup>F6</sup>  
...

“Commission Regulation 1122/2009” means Commission Regulation (EC) No. 1122/2009 laying down detailed rules for the implementation of Council Regulation (EC) No. 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for 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(3);

[<sup>F7</sup>“Commission Regulation 65/2011” means Commission Regulation (EU) No. 65/2011 laying down detailed rules for the implementation of Council Regulation (EC) No. 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures;]

“common grazing” means any right in pasture or grazing land held or to be held by the applicant, whether alone or in common with others;

[<sup>F8</sup>“competent authority”—

- (a) in relation to a Scheme Year commencing before 1st January 2015, has the same meaning as in regulation 3 of the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2009; and
- (b) in relation to a Scheme Year commencing on or after 1st January 2015, has the same meaning as it has in regulations 2(1) and 3 of the Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014;]

“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(4);

“cross border holding” means a holding in the United Kingdom which is situated partly in Scotland;

[<sup>F9</sup>“cross-compliance”—

- (a) in relation to a Scheme Year commencing before 1st January 2015, has the same meaning as it has for the purposes of Article 5 and Annex II and Article 6 and Annex III of Council Regulation 73/2009; and
- (b) in relation to a Scheme Year commencing on or after 1st January 2015, has the same meaning as it has for the purposes of Articles 93 and 94 and Annex II of the Horizontal Regulation;]

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(2) O.J. No. L 277, 21.10.2005, p.1 as last amended by Council Regulation (EC) No. 473/2009, O.J. No. L 144, 9.6.2009, p.3.

(3) O.J. No. L 316, 2.12.2009, p.65 as amended by Commission Regulation (EU) No. 146/2010, O.J. L 47, 24.2.2010, p.1.

(4) O.J. No. L 30, 31.1.2009, p.16 as last amended by Commission Regulation (EU) No. 360/2010, O.J. No. L 106, 28.4.2010, p.1.

“dairy activity” means maintaining a dairy herd;

“dairy cow” means a female bovine animal which, in the opinion of the Scottish Ministers, is a breeding cow maintained primarily for the purpose of milk production and aged over 20 months;

“dairy ring fence area” has the meaning given in Schedule 1;

“designated maps” means the four maps numbered 1 to 4, each such map being marked “Map of less-favoured farming areas in Scotland”, dated 5th May 1991, signed by the Secretary of State for Scotland and deposited at the offices of the Scottish Government Rural Payments and Inspections Directorate, Saughton House, Broomhouse Drive, Edinburgh EH11 3XD;

[<sup>F10</sup>“Direct Payments Regulation” means Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009, as amended from time to time;]

“eligible land” shall be construed in accordance with regulation 5;

“farmed deer” means any deer of any species which is kept on eligible land enclosed by a deer proof barrier and kept by way of business for the primary purpose of meat production;

“forage area” means the area of the holding available to the applicant throughout the Scheme Year for rearing livestock including areas in shared use and areas subject to mixed cultivation but not including buildings, woods, ponds and paths;

[<sup>F11</sup>“force majeure or exceptional circumstances” is to be construed in accordance with Article 2(2) of the Horizontal Regulation;]

“goat” means any goat (of any breed) which is kept by way of business for the primary purpose of fibre production;

[<sup>F12</sup>“holding”—

- (a) in relation to a Scheme Year commencing before 1st January 2015, has the same meaning as it has for the purposes of Article 2(b) of Council Regulation 73/2009; and
- (b) in relation to a Scheme Year commencing on or after 1st January 2015, has the same meaning as it has in Article 4(1)(b) of the Direct Payments Regulation;]

[<sup>F13</sup>“Horizontal Delegated Regulation” means Commission Delegated Regulation (EU) No 640/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance, as amended from time to time;]

[<sup>F13</sup>“Horizontal Implementing Regulation” means Commission Implementing Regulation (EU) No 809/2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance, as amended from time to time;]

[<sup>F13</sup>“Horizontal Regulation” means Regulation (EU) No 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008, as amended from time to time;]

“key dates” for sheep means 1st January and for other livestock means 1st January and 30th June;

“less favoured area” means the land shown coloured in blue or in pink on the designated maps—

- (a) which is situated in an area included in the list of less favoured farming areas adopted by Council Directive [84/169/EEC](#) concerning the Community list of less-favoured farming areas within the meaning of Directive [75/268/EEC](#) (United Kingdom)(**5**); and
- (b) which is, in the opinion of the Scottish Ministers, inherently suitable for extensive livestock production but not for the production of crops in quantity materially greater than that necessary to feed such livestock as are capable of being maintained on such land, and whose agricultural production is, in the opinion of the Scottish Ministers, restricted in its range by, or by any combination of, soil, relief, aspect or climate;

“livestock” means a beef cow, a dairy cow, a sheep, a goat, a farmed deer, an alpaca or a llama;

“livestock unit” means a unit of measurement of livestock numbers, and each of the following constitute one livestock unit—

- (a) one beef cow over 24 months of age;
- (b) 1.66 beef cows over 20 months and up to and including 24 months of age;
- (c) within the dairy ring fence area, one dairy cow over 24 months of age;
- (d) within the dairy ring fence area, 1.66 dairy cows over 20 months and up to and including 24 months of age;
- (e) 6.66 breeding ewes or gimmers;
- (f) 6.66 breeding female goats kept as part of a regular breeding herd for fibre production;
- (g) 3.33 breeding female farmed deer aged 27 months and over;
- (h) 5 breeding female farmed deer aged over 6 months but less than 27 months of age;
- (i) 3.33 breeding female alpaca kept as part of a regular breeding herd;
- (j) 3.33 breeding female llamas kept as part of a regular breeding herd;

“llama” means any llama of any breed which is kept by way of business for the primary purpose of fibre production;

“maximum stocking density” means 1.40 livestock units per hectare;

[<sup>F14</sup>“minimum stocking density” has the meaning given in regulation 9(1A), (1B) and (1C) and Part III of Schedule 4;]

“payable area” means the area of land on which less favoured area support is to be paid, calculated in accordance with regulation 8 and, adjusted where appropriate, in accordance with regulation 10;

“Scheme Year” means a calendar year commencing on 1st January;

“Scheme 2005 payment” means the sum to which the applicant is entitled in respect of the period from 1st January 2004 to 31st December 2004 under the 2005 Regulations;

“Scheme 2006 payment” means the sum to which the applicant is entitled in respect of the period from 1st January 2005 to 31st December 2005 under the 2005 Regulations;

“Scheme 2007 payment” means the sum to which the applicant is entitled in respect of the period from 1st January 2007 to 31st December 2007 under the 2007 Regulations;

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(5) O.J. L 82, 26.3.1984, p.67 as amended by Commission Decision [91/25/EEC](#), O.J. L 16, 22.1.1991, p.25. Council Regulation (EC) No. [1257/1999](#) on support for rural development from European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations (O.J. No. L 160, 26.6.1999, p.80) provides in Article 55(4) that Directives adopting lists of less-favoured areas or amending such lists in accordance with Article 21 of Council Regulation (EC) No. [950/97](#) (O.J. No. L 142, 2.6.1997, p.1) shall remain in force. Council Regulation [950/97](#) repealed and replaced Directive [75/268/EEC](#) (United Kingdom), O.J. No. L 128, 19.5.1975, p.1. Article 55(4) was preserved by Article 93 of Council Regulation (EC) [1698/2005](#).

“Scheme 2008 payment” means the sum to which the applicant is entitled in respect of the period from 1st January 2008 to 31st December 2008 under the 2007 Regulations;

“Scheme 2009 payment” means the sum to which the applicant is entitled in respect of the period from 1st January 2009 to 31st December 2009 under the 2007 Regulations and “Scheme Year 2009” shall be construed accordingly;

“Scheme 2010 payment” means the sum to which the applicant is entitled in respect of the period from 1st January 2010 to 31st December 2010;

“Scheme 2011 payment” means the sum to which the applicant is entitled in respect of the period from 1st January 2011 to 31st December 2011;

“Scheme 2012 payment” means the sum to which the applicant is entitled in respect of the period from 1st January 2012 to 31st December 2012;

“Scheme 2013 payment” means the sum to which the applicant is entitled in respect of the period from 1st January 2013 to 31st December 2013;

[<sup>F15</sup>“Scheme 2014 payment” means the sum to which the applicant is entitled in respect of the period 1st January 2014 to 31st December 2014;]

[<sup>F16</sup>“Scheme 2015 payment” means the sum to which the applicant is entitled in respect of the period 1st January 2015 to 31st December 2015;]

[<sup>F16</sup>“Scheme 2016 payment” means the sum to which the applicant is entitled in respect of the period 1st January 2016 to 31st December 2016;]

[<sup>F16</sup>“Scheme 2017 payment” means the sum to which the applicant is entitled in respect of the period 1st January 2017 to 31st December 2017;]

[<sup>F17</sup>“Scheme 2018 payment” means the sum to which the applicant is entitled in respect of the period 1st January 2018 to 31st December 2018;]

[<sup>F18</sup>“Scheme 2019 payment” means the sum to which the applicant is entitled in respect of the period 1st January 2019 to 31st December 2019;]

[<sup>F18</sup>“Scheme 2020 payment” means the sum to which the applicant is entitled in respect of the period 1st January 2020 to 31st December 2020]

[<sup>F19</sup>“Scheme 2021 payment” means the sum to which the applicant is entitled in respect of the period from 1st January 2021 to 31st December 2021;]

[<sup>F19</sup>“Scheme 2022 payment” means the sum to which the applicant is entitled in respect of the period from 1st January 2022 to 31st December 2022;]

[<sup>F19</sup>“Scheme 2023 payment” means the sum to which the applicant is entitled in respect of the period from 1st January 2023 to 31st December 2023;]

[<sup>F19</sup>“Scheme 2024 payment” means the sum to which the applicant is entitled in respect of the period from 1st January 2024 to 31st December 2024;]

“shared grazing” means land used for grazing within a field used by two or more producers;

“sheep” means breeding ewes or gimmers, kept by way of business for the primary purpose of meat production;

[<sup>F20</sup>“single application”—

- (a) in relation to a calendar year before 2015, has the meaning given in Article 2(11) of Commission Regulation 1122/2009; and
- (b) in relation to a calendar year from 2015, means an application for direct payments (as described in Article 1 of the Direct Payments Regulation) in respect of an area-related direct payment within the meaning of Article 67(4)(b) of the Horizontal Regulation;]

“the 2003 Regulations” means the Less Favoured Area Support Scheme (Scotland) Regulations 2003(6);

“the 2005 Regulations” means the Less Favoured Area Support Scheme (Scotland) Regulations 2005(7); and

“the 2007 Regulations” means the Less Favoured Area Support Scheme (Scotland) Regulations 2007(8).

(2) Any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in section 15 of the Electronic Communications Act 2000(9) (general interpretation), which has been recorded and is consequently capable of being reproduced.

### Textual Amendments

- F2** Words in reg. 2(1) omitted (1.3.2013) by virtue of The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2013 (S.S.I. 2013/9), regs. 1, **3**
- F3** Words in reg. 2(1) inserted (9.6.2015) by The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2015 (S.S.I. 2015/185), regs. 1, **3(a)**
- F4** Words in reg. 2(1) omitted (9.6.2015) by virtue of The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2015 (S.S.I. 2015/185), regs. 1, **3(b)**
- F5** Words in reg. 2(1) inserted (9.3.2012) by The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2012 (S.S.I. 2012/24), regs. 1, **3**
- F6** Words in reg. 2(1) omitted (14.3.2011) by virtue of The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2011 (S.S.I. 2011/73), regs. 1, **3(a)**
- F7** Words in reg. 2(1) inserted (14.3.2011) by The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2011 (S.S.I. 2011/73), regs. 1, **3(b)**
- F8** Words in reg. 2(1) substituted (9.6.2015) by The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2015 (S.S.I. 2015/185), regs. 1, **3(c)**
- F9** Words in reg. 2(1) substituted (9.6.2015) by The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2015 (S.S.I. 2015/185), regs. 1, **3(d)**
- F10** Words in reg. 2(1) inserted (9.6.2015) by The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2015 (S.S.I. 2015/185), regs. 1, **3(e)**
- F11** Words in reg. 2(1) inserted (9.6.2015) by The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2015 (S.S.I. 2015/185), regs. 1, **3(f)**
- F12** Words in reg. 2(1) substituted (9.6.2015) by The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2015 (S.S.I. 2015/185), regs. 1, **3(g)**
- F13** Words in reg. 2(1) inserted (9.6.2015) by The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2015 (S.S.I. 2015/185), regs. 1, **3(h)**
- F14** Words in reg. 2(1) substituted (14.3.2011) by The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2011 (S.S.I. 2011/73), regs. 1, **3(c)**
- F15** Words in reg. 2(1) inserted (1.3.2014) by The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2014 (S.S.I. 2014/7), regs. 1, **3**
- F16** Words in reg. 2(1) inserted (9.6.2015) by The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2015 (S.S.I. 2015/185), regs. 1, **3(i)**
- F17** Words in reg. 2(1) inserted (15.5.2018) by The Common Agricultural Policy (Miscellaneous Amendments) (Scotland) Regulations 2018 (S.S.I. 2018/122), regs. 1, **16**
- F18** Words in reg. 2(1) inserted (15.5.2019) by The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2019 (S.S.I. 2019/98), regs. 1, **3**

(6) S.S.I. 2003/129, revoked by regulation 27 of S.S.I. 2004/70, subject to the savings provision contained in that regulation.

(7) S.S.I. 2005/569 as amended by S.S.I. 2005/64, S.S.I. 2005/624 and S.S.I. 2006/601, revoked by regulation 26 of S.S.I. 2007/439 subject to the savings provision contained in that regulation.

(8) S.S.I. 2007/439 as amended by S.S.I. 2008/294 and S.S.I. 2009/412.

(9) 2000 (c.7); section 15 was amended by the Communications Act 2003 c.21 section 406 and Schedule 17 paragraph 158.

- F19** Words in reg. 2 inserted (1.1.2021) by The Common Agricultural Policy (Less Favoured Area Support) (EU Exit) (Scotland) Amendment Regulations 2020 (S.S.I. 2020/456), regs. 1(2), **3(2)(a)**
- F20** Words in reg. 2 substituted (1.1.2021) by The Common Agricultural Policy (Less Favoured Area Support) (EU Exit) (Scotland) Amendment Regulations 2020 (S.S.I. 2020/456), regs. 1(2), **3(2)(b)**
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**Commencement Information**

- I2** Reg. 2 in force at 2.7.2010, see **reg. 1(1)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Less Favoured Area Support Scheme (Scotland) Regulations 2010, PART I.