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SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 24**

**AGRICULTURE**

**The Less Favoured Area Support Scheme  
(Scotland) Amendment Regulations 2012**

*Made* - - - - 26th January 2012  
*Laid before the Scottish  
Parliament* - - - - 30th January 2012  
*Coming into force* - - 9th March 2012

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.

**Citation and commencement**

1. These Regulations may be cited as the Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2012 and come into force on 9th March 2012.

**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. In regulation 2(1) (interpretation), after the definition of “Council Regulation 1698/2005” insert—

““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>(3)</sup>”.

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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), section 3(3) and Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), in so far 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.

(3) OJ L 368, 23.12.2006, p.74 as amended by Commission Regulation (EC) No 1396/2007 (OJ L 311, 29.11.2007, p.3) and Commission Regulation (EC) No 484/2009 (OJ L 145, 10.6.2009, p.25) and repealed, subject to savings, by Commission Regulation (EU) No 65/2011 (OJ L 25, 28.1.2011, p.8).

4. In regulation 9 (stocking density outwith the minimum and maximum stocking density parameters), for paragraph (8) substitute—

“(8) For the purposes of this regulation and Part II of Schedule 4, “historic land area” means—

- (a) the area of eligible land declared by the applicant in a single application in 2009 or in the first year of application where the applicant did not submit a single application or claim less favoured area support in or prior to 2009; or
- (b) land comprising the number of hectares of forage in a less favoured area, as declared by the applicant in a single application in relation to 2009 and having one of the land use codes specified in column 2 of Schedule 2 corresponding to the entry in column 1 of Schedule 2 relating to the use of land, where no less favoured area grazing category was attributed for the purposes of the 2003 Regulations, the 2005 Regulations or the 2007 Regulations,

prior to deduction of either or both of—

- (i) any penalty area calculated in accordance with Commission Regulation 1975/2006 or Commission Regulation 65/2011; and
- (ii) any area deducted in accordance with regulation 6(5) of the 2007 Regulations.”.

St Andrew’s House,  
Edinburgh  
26th January 2012

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

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## EXPLANATORY NOTE

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

These Regulations amend the Less Favoured Area Support Scheme (Scotland) Regulations 2010 (“the 2010 Regulations”). The 2010 Regulations make provision for the purposes of the implementation of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 277, 21.10.2005, p.1), Commission Regulation (EC) No 1974/2006 (OJ L 368, 23.12.2006, p.15) and Commission Regulation (EU) No 65/2011 (OJ L 25, 28.1.2011, p.8), both laying down detailed rules for the application of Council Regulation 1698/2005.

Regulation 4 amends the definition of “historic land area” in regulation 9(8) of the 2010 Regulations. That definition relates to the calculation of stocking density based on the applicant’s livestock units and area of land during a historical reference period. This is relevant to the calculation of the amount of less favoured area support in accordance with regulations 7, 8 and 10 of the 2010 Regulations.

In determining the historic land area for the purposes of the 2010 Regulations, the amendment made by regulation 4 enables account to be taken of—

- forage land declared by the applicant in relation to a single application in 2009 where no grazing category has been attributed for the purpose of previous less favoured area support schemes; and
- penalties imposed under Commission Regulation (EC) No 1975/2006 (OJ L 368, 23.12.2006, p.74) as well as Commission Regulation (EU) No 65/2011. Although Commission Regulation (EC) No 1975/2006 was repealed by Article 34(1) of Commission Regulation (EU) No 65/2011, it continues to apply in respect of payment claims submitted before 1st January 2011.

Regulation 3 amends regulation 2(1) of the 2010 Regulations to insert a definition of Commission Regulation (EC) No 1975/2006.

No Business and Regulatory Impact Assessment has been prepared for this instrument as it has no impact on the cost of business.