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) Regulations 2004. 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) View outstanding changes*

SCOTTISH STATUTORY INSTRUMENTS

2004 No. 70

AGRICULTURE

The Less Favoured Area Support Scheme (Scotland) Regulations 2004

Made - - - -	*25th February 2004*
Laid before the Scottish Parliament - - - -	*26th February 2004*
Coming into force - -	*18th March 2004*

The Scottish Ministers in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 [F1] and of all powers enabling them in that behalf, hereby make the following Regulations:

F1 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

1.—(1) These Regulations may be cited as the Less Favoured Area Support Scheme (Scotland) Regulations 2004 and shall come into force on 18th March 2004.

(2) These Regulations apply to holdings in respect of which the Scottish Ministers are the competent authority, in accordance with the Integrated Administration and Control System Regulations 1993 [F2].

F2 S.I. 1993/1317, amended by S.I. 1994/1134, 1997/1148, 1999/1820 and 2000/2573.

Interpretation

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

"agricultural" includes the use of land–

(a) for the purposes of horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping;

(b) as grazing land, meadow land, osier land, market gardens and nursery grounds; and

(c) for woodlands, where that use is ancillary to the use of land for other agricultural purposes;

"agri-environment scheme" means an arrangement which is–

(a) regulated by statutory instrument providing for the payment of aid to persons who give an undertaking or enter into an agreement in relation to the use or management of land; and

(b) approved by the Commission of the European Communities under either–

(i) Article 44 of Council Regulation 1257/1999 as part of a rural development plan drawn up pursuant to Article 41 of that Regulation and containing measures pursuant to Articles 22 to 24 of that Regulation; or

(ii) Article 7 of Council Regulation (EEC) No. 2078/1992 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside [F3];

"alpaca" means any alpaca of any breed which are kept by way of business for the primary purpose of fibre production;

"applicant" means a person who has made an application for less favoured area support under these Regulations in accordance with regulation 3;

"area aid application" has the same meaning as in Article 6 of Council Regulation 3508/1992;

"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;

"cattle" for the purposes of regulation 11 (enterprise mix), means–

(a) suckler cows and heifers; and

(b) for those applicants maintaining a dairy herd in the islands of Shetland, the islands of Orkney, the islands of Islay, Jura, Arran, Bute, Great Cumbrae, Little Cumbrae and the Kintyre Peninsula south of Tarbert, any other islands in the Outer Hebrides and the Inner Hebrides, or part of the Cowal peninsula as defined in Schedule 9, a livestock unit for each 5730 litres of milk quota held,

which the Scottish Ministers determine are to be taken into account from time to time;

"Commission Regulation 2419/2001" means Commission Regulation (EC) No. 2419/2001 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes [F4];

"Commission Regulation 445/2002" means Commission Regulation (EC) No. 445/2002 laying down detailed rules for the application of Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) [F5];

"common grazing" has the same meaning as it has for the purpose of Article 11 of Commission Regulation 445/2002;

"competent authority" has the same meaning as in regulation 2A of the Integrated Administration and Control System Regulations 1993 [F6];

"Council Regulation 3508/1992" means Council Regulation (EEC) No. 3508/1992 establishing an Integrated Administration and Control System for certain Community aid schemes [F7];

"Council Regulation 1254/1999" means Council Regulation (EC) No. 1254/1999 on the common organisation of the market in beef and veal [F8];

"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 [F9];

"Council Regulation 2529/2001" means Council Regulation (EC) 2529/2001 on the common organisation of the market in sheep meat and goat meat [F10];

"cross-border holding" means a holding in the United Kingdom which is situated partly in Scotland;

"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 Executive Environment and Rural Affairs Department, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY;

"eligible agricultural activity" means one or more of the following activities which, in the opinion of the Scottish Ministers are undertaken on a continuous basis:–

(a) maintaining a herd of suckler cows;

(b) maintaining a flock of sheep comprising eligible ewes as defined by Council Regulation 2529/2001;

(c) maintaining a dairy herd in–

  (i) the islands of Shetland;

  (ii) the islands of Orkney;

  (iii) the islands of Islay, Jura, Arran, Bute, Great Cumbrae, Little Cumbrae and the Kintyre Peninsula south of Tarbert;

  (iv) any other islands in the Outer Hebrides and the Inner Hebrides; or

  (v) part of the Cowal peninsula as defined in Schedule 9;

(d) maintaining a breeding herd of farmed deer for meat production;

(e) maintaining a breeding herd of goats for fibre production;

(f) maintaining a breeding herd of alpaca for fibre production; or

(g) maintaining a breeding herd of llamas for fibre production;

"eligible land" has the same meaning as in regulation 6;

"eligible livestock unit" means a livestock unit determined in accordance with regulation 10(4) and Part I of Schedule 1;

"farmed deer" means any deer (of any species) which are managed on a holding enclosed by a deer-proof barrier and are kept on the holding by way of business for the primary purpose of the production of meat;

"forage area" has the same meaning as in Article 12(2)(b) of Council Regulation 1254/1999;

"goat" means any goat (of any species) which is kept by way of business for the primary purpose of fibre production;

"holding" has the same meaning as in regulation 2 of the Integrated Administration and Control System Regulations 1993;

"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) [F11]; 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 any combination of, soil, relief, aspect or climate;

"livestock" means suckler cow, dairy cow, beef heifer, dairy heifer, sheep, goat, farmed deer, alpaca and llama;

"livestock unit" means a unit of measurement of livestock numbers, and each of the following constitute one livestock unit:–

(a) one suckler cow;

(b) 1.66 heifers 8 months and over;

(c) 6.66 breeding ewes;

(d) 6.66 breeding female goats;

(e) 3.33 breeding female farmed deer 27 months and over;

(f) 5 breeding female farmed deer over 6 months but less than 27 months;

(g) 3.33 breeding female alpaca;

(h) 5730 litres of milk quota;

(i) 3.33 breeding female llamas;

"llama" means any llama of any breed which are kept by way of business for the primary purpose of fibre production;

"maximum stocking density" means 1.40 livestock units per hectare;

"minimum stocking density" means 0.12 livestock units per hectare;

"Payable Area" means the adjusted area of land on which less favoured area support is to be paid, calculated in accordance with regulation 9 and, where appropriate, regulation 11;

"retirement pension" means a category A or category B pension within the meaning of section 20(1)(f) of the Social Security Contributions and Benefits Act 1992 [F12], a category C or category D pension within the meaning of section 63(f) of that Act, or graduated retirement benefit as referred to in section 62 of that Act;

"rough grazings and other semi-natural areas" means land containing semi-natural vegetation including heathland, heather moorland, bog, unimproved grassland and rough grassland which is used or suitable for grazing;

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

"Scheme 2004 payment" means the sum to which the applicant is entitled in respect of the period from 1st January 2003 to 31st December 2003;

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

"suckler cow" means an adult female bovine animal kept in a regular breeding herd which is not maintained primarily for the production of milk;

"the 1996 Regulations" means the Hill Livestock (Compensatory Allowances) Regulations 1996 [F13];

"the 1999 Regulations" means the Hill Livestock (Compensatory Allowances) (Scotland) Regulations 1999 [F14];

"the 2001 Regulations" means the Less Favoured Area Support Scheme (Scotland) Regulations 2001 [F15];

"the 2002 Regulations" means the Less Favoured Area Support Scheme (Scotland) Regulations 2002 [F16];

"the 2003 Regulations" means the Less Favoured Area Support Scheme (Scotland) Regulations 2003 [F17];

"usual good farming practices" means those practices undertaken on a holding in compliance with–

(a) the provisions of environmental legislation set out in Part I of Schedule 2; and

(b) the verifiable standards set out in Part II of Schedule 2.

(2) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation or paragraph or to a Schedule is a reference to the regulation or paragraph of the regulation or the Schedule so numbered in these Regulations.

(3) 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 the Electronic Communications Act 2000 [F18], which has been recorded and is consequently capable of being reproduced.

F3 O.J. No. L 215, 30.7.92, p. 85, as amended by Commission Regulation (EC) No. 2772/95 (O.J. No. L 288, 1.12.95, p.35), and repealed by Council Regulation 1257/1999.

F4 O.J. No. L 327, 12.12.01, p.11, as corrected by Corrigendum to Commission Regulation (EC) 2419/22001 (O.J. No. L 7, 11.1.02, p.48) and amended by Commission Regulation (EC) No. 2550/2001 (O.J. No. L 341, 22.12.01, p.105).

F5 O.J. No. L 74, 15.3.02, p.1.

F6 Regulation 2A was inserted by S.I. 2000/2573.

F7 O.J. No. L 355, 5.12.92, p.1, amended by Council Regulation (EC) No. 165/1994 (O.J. No. L 24, 29.1.94, p.6), Council Regulation (EC) No. 3233/1994 (O.J. No. L 338, 28.12.94, p.13), Council Regulation (EC) No. 3235/1994 (O.J. No. L 338, 28.12.94, p.16), Council Regulation (EC) No. 3072/1995 (O.J. No. L 329, 30.12.95, p.18), Council Regulation (EC) No. 1577/1996 (O.J. No. L 206, 16.8.96, p.4), Council Regulation (EC) No. 2466/1996 (O.J. No. L 335, 24.12.96, p.1), Commission Regulation (EC) No. 613/1997 (O.J. No. L 94, 9.4.97, p.1), Council Regulation (EC) No 820/1997 (O.J. No. L 117, 7.5.97, p.1), Council Regulation (EC) No. 1036/1999 (O.J. No. L 127, 21.5.99, p.4), Council Regulation (EC) No. 1593/00 (O.J. No. L 182, 21.7.00, p.4), Council Regulation (EC) No. 495/2001 (O.J. No. L 072, 14.3.01, p.6) and Council Regulation (EC) No. 1782/2003 (O.J. No. L 270, 21.10.03, p.1). Council Regulation (EEC) No. 3508/92 was repealed by Article 153(1) of Council Regulation (EC) No. 1782/2003, but continues to apply to applications for direct payments in respect of the calendar years preceding 2005.

F8 O.J. No. L 160, 26.6.99, p.21, corrected by Corrigendum to Council Regulation (EC) No. 1254/1999 (O.J. No. L 263, 18.10.00, p.34) and amended by Council Regulation (EC) No. 1455/2001 (O.J. No. L 198, 21.7.01, p.58), Commission Regulation (EC) No. 1512/2001 (O.J. No. L 201, 26.7.01, p.1), Commission Regulation (EC) No. 2345/2001 (O.J. No. L 315, 1.12.01, p.29) and Council Regulation (EC) No. 1782/2003 (O.J. No. L 270, 21.10.03, p.1).

F9 O.J. No. L 160, 26.6.99, p.80.

F10 O.J. No. L 341, 22.12.01, p.3.

F11 O.J. No. L 82, 26.3.84, p.67, as amended by Commission decision 91/25/EEC altering the limits of the less-favoured areas in the United Kingdom within the meaning of Council Directive 75/268/EEC (O.J. No. L 16, 22.1.91, p.25).

F12 1992 c. 4; section 20(1)(f) was amended by the Tax Credits Act 2002 (c. 21), **Schedule 6**; section 62 was amended by the Pensions Act 1995 (c. 26), **section 131** and Schedule 4, paragraph 7; and section 63 was amended by the Tax Credits Act 2002 (c. 21), **Schedule 6**.

F13 S.I. 1996/1500, amended by S.I. 1997/33, 1998/206 and 1999/375, and revoked by S.S.I. 1999/187, **regulation 23**.

F14 S.S.I. 1999/187; revoked by S.S.I. 2001/50, **regulation 23**.

F15 S.S.I. 2001/50; revoked by S.S.I. 2002/139, **regulation 26**.

F16 S.S.I. 2002/139.

F17 S.S.I. 2003/129.