SCOTTISH STATUTORY INSTRUMENTS

2001 No. 50

AGRICULTURE

The Less Favoured Area Support Scheme (Scotland) Regulations 2001

Made - - - -	*23rd February 2001*
Laid before the Scottish Parliament - - - -	*26th February 2001*
Coming into force - -	*19th March 2001*

The Scottish Ministers in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**) and of all powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Less Favoured Area Support Scheme (Scotland) Regulations 2001 and shall come into force on 19th March 2001.

(2) These Regulations apply to holdings which the Scottish Ministers administer in accordance with the Integrated Administration and Control System Regulations 1993(**2**).

Interpretation

2.—(1) 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, and "agricultural" shall be construed accordingly;

"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;

(**1**) 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.

(**2**) S.I. 1993/1317, amended by S.I. 1994/1134, S.I. 1997/1148, S.I. 1999/1820 and S.I. 2000/2573.

"average stocking density" means the average number of livestock units per hectare for the holding class set out in Schedule 3;

"cattle" means suckler cows and heifers which the Scottish Ministers determine are taken into account from time to time for the purposes of calculating additional payments for environmental measures under regulation 9;

"Commission Regulation 3887/1992" means Commission Regulation (EEC) No. 3887/1992

laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes(**3**);

"Commission Regulation 1750/1999" means Commission Regulation (EC) 1750/1999 laying down detailed rules for the application of Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agriculture Guidance Guarantee Fund(**4**);

"Commission Regulation 2603/1999" means Commission Regulation (EC) No. 2603/1999 laying down transitional rules for rural development support(**5**);

"common grazing" has the same meaning attributed to it for the purpose of article 11 of Commission Regulation 1750/1999.

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

"Council Regulation 1254/1999" means Council Regulation (EC) No. 1254/1999 on the common organisation of the market in beef and veal(**6**);

"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(**7**);

"Council Regulation 3493/90" means Council Regulation (EEC) No. 3493/90 laying down general rules for the granting of premiums to sheepmeat and goatmeat producers(**8**);

"Council Regulation 3508/1992" means Council Regulation (EEC) No. 3508/1992 establishing as Integrated Administration and Control System for certain Community aid schemes(**9**);

"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" and with the number of the map, dated 5th May 1991, signed by the Secretary of State for Scotland and deposited at the offices of the Scottish Executive Rural Affairs Department, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TW;

(**3**) O.J. No. L 391, 31.12.92, p.36, amended by Commission Regulation (EC) No. 229/95 (O.J. L 27, 4.2.95, p.3), Commission Regulation (EC) No. 1648/95 (O.J. L 156, 7.7.95, p.27) Commission Regulation (EC) No. 2015/95 (O.J. L 197, 22.8.95, p.2), Commission Regulation (EC) No. 1678/98 (O.J. L 212, 30.7.98, p.23) and Commission Regulation (EC) No. 2801/1999 (O.J. L 340, 31.12.99, p.29).

(**4**) O.J. No. L 214, 13.8.99, p.31, as corrected by Corrigendum to Commission Regulation (EC) 1750/99 (O.J. L 337, 30.12.99, p.75) and amended by Commission Regulation (EC) No. 2075/2000 (O.J. No. L 246, 30.9.00, p.46).

(**5**) O.J. No. L 316, 10.12.99, p.26 amended by Commission Regulation (EC) No. 1929/2000 (O.J. L 231, 13.9.00, p.5).

(**6**) O.J. No. L 160, 26.6.99, p.80.

(**7**) O.J. No. L 160, 26.6.99, p.80.

(**8**) O.J. L 337, 4.12.90, p.7, as amended by Council Regulation 3797/93 (O.J. L 357, 28.12.91, p.2), Council Regulation 2070/92 (O.J. L 215, 30.7.92, p.63), Council Regulation 233/94 (O.J. L 30, 3.2.94, p.9) and Council Regulation 2825/00 (O.J. L 328, 23.12.00, p.1).

(**9**) O.J. No. L 355, 5.12.92, p.1, amended by Council Regulation (EC) No. 165/1994 (O.J. L 24, 29.1.94, p.6), Council Regulation (EC) No. 3233/1994 (O.J. L 338, 28.12.94, p.13), Council Regulation (EC) No. 3235/1994 (O.J. L 338, 28.12.94, p.16), Council Regulation (EC) No. 3072/1995 (O.J. L 329, 30.12.95, p.18), Council Regulation (EC) No. 1577/1996 (O.J. L 206, 16.8.96, p.4), Council Regulation (EC) No. 2466/1996 (O.J. L 335, 24.12.96, p.1), Commission Regulation (EC) No. 613/1997 (O.J. L 94, 9.4.97, p.1), Council Regulation (EC) No 820/1997 (O.J. L 117, 7.5.97, p.1), Council Regulation (EC) No. 1036/1999 (O.J. L 127, 21.5.99, p.4), and Council Regulation (EC) No. 1593/00 (O.J. L 182, 21.7.00, p.4).

"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 3493/90;

(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; or

(iv) the islands in the Outer Hebrides and the Inner Hebrides, not already listed;

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

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

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

"eligible land" has the meaning as attributed to it in regulation 6;

"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 are kept by way of business for the primary purpose of fibre production;

"Highlands and Islands area" means that part of Scotland comprising–

(a) the area of the Argyll and Bute Council, excluding the Parishes of Arrochar, Cardross, Luss, Rhu, and Roseneath;

(b) the area of the Highland Council;

(c) the area of the Orkney Islands Council;

(d) the area of the Shetland Islands Council;

(e) the area of the Western Isles Council;

(f) in the area of the North Ayrshire Council, the islands of Arran, Great Cumbrae and Little Cumbrae; and

(g) in the area of the Moray Council, the Parishes of Aberlour, Cabrach, Dallas, Dyke, Edinkillie, Forres, Inveravon, Kinloss, Kirkmichael, Knockando, Mortlach, Rafford and Rothes;

"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)(**10**); 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

(**10**) 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).

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 and alpaca;

"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 over 8 months and up to 24 months;

(c) 6.66 breeding ewes;

(d) 6.66 breeding female goats;

(e) 1.66 breeding female farmed deer;

(f) 3.33 breeding female alpaca;

(g) 5730 litres of milk quota;

"minimum stocking density" means the minimum number of livestock units per hectare of a class of holding and which are listed in Schedule 2;

"Moorland" has the meaning as attributed to it by regulation 8;

"Northern Upland" has the meaning as attributed to it by regulation 8;

"retirement pension" mean a category A or category B pension within the meaning of section 20(1)(f) of the Social Security Contributions and Benefits Act 1992(**11**), 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;

"SAPS" means the Sheep Annual Premium Regulations 1992(**12**);

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

"SCPS" means the Suckler Cow Premium Regulations 1993(**13**);

"Southern Upland" has the meaning as attributed to it by regulation 8;

"stocking density" has the meaning as attributed to it by Schedule 4;

"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(**14**);

"the 1999 Regulations" means the Hill Livestock (Compensatory Allowances) (Scotland) Regulations 1999(**15**);

"usual good farming practices" means those practices undertaken on a holding as determined in accordance with Schedule 5.

(2) Any reference in these Regulations to a Community instrument is a reference to that instrument as amended on the date on which these Regulations are made.

(3) 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.

(**11**) 1992 c. 4.
(**12**) S.I. 1992/2677 amended by S.I. 1994/2741, 1995/2779, 1996/49, 1997/2500, 2000/2573 and S.S.I. 2000/418.
(**13**) S.I. 1993/1441 amended by S.I. 1994/1528, 1995/15, 1995/1446, 1996/1488, 1997/249 and S.S.I. 2000/215.
(**14**) S.I. 1996/1500, amended by S.I. 1907/33, 1998/206 and 1999/375.
(**15**) S.S.I. 1999/187.

Applications for payment of less favoured area support

3.—(1) An application for less favoured area support shall be in such form and shall contain such particulars relating to that application as the Scottish Ministers may reasonably require.

(2) An applicant shall submit the application for less favoured area support in respect of the Scheme Year in question to the Scottish Ministers on or after a date each year which the Scottish Ministers will determine from time to time.

(3) If an applicant submits an application for less favoured area support in respect of the relevant scheme year later than the date determined by Scottish Ministers, the Scottish Ministers must reduce, or as the case may be exclude, the applicant from payment of less favoured area support in accordance with Article 8 of Commission Regulation 3887/92.

Eligibility for payment of less favoured area support

4.—(1) Payment of less favoured area support may be made to an applicant only if–

(a) that applicant has given an undertaking, in such form as the Scottish Ministers may reasonably require, to continue to use eligible land for eligible agricultural activities for a period of five years from the first payment made under these Regulations or under the 1999 Regulations or the 1996 Regulations;

(b) that applicant applies usual good farming practices on the applicant's eligible land; and

(c) that applicant does not use substances referred to in Article 14.2 of the Council Regulation 1257/1999.

(2) Paragraph (1)(a) does not apply to an applicant who is in receipt of a retirement pension at the time when that undertaking requires to be given.

(3) An applicant is released from the undertaking referred to in paragraph (1)(a) if–

(a) at the moment that such an applicant receives a retirement pension;

(b) that applicant is prevented from continuing to discharge that undertaking by reason of any material circumstances beyond that person's control; or

(c) the applicant ceases farming and at least three hectares of the applicant's eligible land continues to be used for carrying out an eligible agricultural activity.

(4) For the purposes of paragraph (1)(b), an applicant applies usual good farming practices on the eligible land if the applicant complies in relation to the eligible land–

(a) with provisions of environmental legislation set out in Part I of Schedule 5; and

(b) with the verifiable standards set out in Part II of Schedule 5.

Payment of less favoured area support

5. Subject to Commission Regulation 2603/99, the Scottish Ministers may pay, on such occasions as they consider fit, in respect of the Scheme Year in question to an applicant less favoured area support for carrying out eligible agricultural activity on eligible land which is not less than 3 hectares.

Eligible land

6.—(1) Subject to paragraphs (3) and (4), eligible land comprises the number of hectares of forage area in a less favoured area–

(a) as declared in an area aid application submitted to the Scottish Ministers, on or before 15th May in the Scheme Year for which payment is to be made, by the applicant in accordance with Article 6 of Council Regulation 3508/92, or