
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 273

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

PART III

CALCULATION OF LESS FAVOURED AREA SUPPORT

Stocking density outwith the minimum and maximum stocking density parameters

9.—(1) The provisions of this regulation apply where the stocking density calculated in accordance with paragraph (4) and Parts I and II of Schedule 4 is either less than the minimum stocking density or greater than the maximum stocking density.

[^{F1}(1A) Subject to paragraphs (1B) and (1C), the minimum stocking density is the entry in the second column in Part III of Schedule 4 corresponding to the grazing category in the first column of that Part of that Schedule.

(1B) Where an applicant has eligible land which comprises land falling into more than one grazing category (as determined for the purposes of regulation 8), the minimum stocking density is the sum (to two decimal places) of the minimum stocking densities for each grazing category calculated in accordance with paragraph (1C).

(1C) The minimum stocking density for each grazing category is the proportion of the minimum stocking density (as set out in the second column in Part III of Schedule 4 corresponding to the grazing category in the first column of that Schedule) that the land in the grazing category represents in relation to the overall eligible land.]

(2) Where the stocking density calculated in accordance with paragraph (4) and Parts I and II of Schedule 4 is less than the minimum stocking density, the eligible land for the purposes of the calculation in regulation 8(1) is the number of hectares calculated in accordance with the following formula—

$$E1 = (F \times S) \div M$$

Where—

E1 is the area of eligible land adjusted in accordance with this regulation;

F is the total area of eligible land of the applicant;

S is the stocking density calculated for the applicant in accordance with paragraph (4) and Parts I and II of Schedule 4; and

M is the minimum stocking density.

(3) Where the stocking density calculated in accordance with paragraph (4) and Parts I and II of Schedule 4 is greater than the maximum stocking density, the eligible land for the purposes of the calculation in regulation 8(1) is the number of hectares calculated in accordance with the following formula—

$$E2 = (F \times M) \div S$$

Where—

$E2$ is the area of eligible land adjusted in accordance with this regulation;

F is the total area of eligible land of the applicant;

M is the maximum stocking density; and

S is the stocking density calculated for the applicant in accordance with paragraph (4) and Parts I and II of Schedule 4.

[^{F2}(4) For the purpose of regulation 5(1)(a)(ii), regulation 8(4)(c) and paragraphs (1), (2) and (3), the stocking density is to be calculated in accordance with Parts I and II of Schedule 4, using—

- (a) livestock units based on the number of livestock which the Scottish Ministers determine were maintained by the applicant on eligible land in the applicable year; and
- (b) the historic land area.

(5) In determining the number of livestock for the purposes of paragraph (4)(a), the Scottish Ministers must have regard to the livestock numbers declared by the applicant as being maintained by the applicant on eligible land on key dates in the applicable year.]

(6) Where—

- (a) an applicant has land in more than one grazing category (as determined for the purposes of regulation 8); and
- (b) eligible land, for the purpose of the calculation in regulation 8(1), for that applicant has been reduced under paragraph (2) or (3),

the Scottish Ministers must apply that reduction in eligible land proportionately to the total of the eligible land in each grazing category for the purpose of the calculation in regulation 8(1).

[^{F3}(7) Where the stocking density calculated in accordance with paragraph (4) was less than the minimum stocking density due to force majeure or exceptional circumstances, the applicant may request that the Scottish Ministers determine the stocking density to be used for the purposes of the formula at paragraph (2).

(8) For the purposes of this regulation and Parts I and II of Schedule 4—

“applicable year” means—

- (a) 2009, in respect of an applicant—
 - (i) who submitted a single application in or prior to 2009; and
 - (ii) to whom paragraph (9) does not apply;
- (b) 2013, in respect of an applicant to whom paragraph (9) applies; or
- (c) the first year of application for less favoured area support, where the applicant did not submit a single application in or prior to 2009; and

“historic land area” means—

- (a) the area of eligible land declared by the applicant in a single application in the applicable year; 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.
- (9) This paragraph applies to an applicant—
- (a) who submitted a single application in or prior to 2009 but who did not in 2009—
 - (i) maintain livestock on, or declare an area of, eligible land; or
 - (ii) declare land comprising hectares of forage in a less favoured area; and
 - (b) in respect of whom, no stocking density was calculated by the Scottish Ministers for the purposes of a payment of less favoured area support to that applicant in relation to any Scheme Year commencing on or after 1st January 2010 and ending on or before 31st December 2014.]

Textual Amendments

- F1** Reg. 9(1A)-(1C) inserted (14.3.2011) by The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2011 (S.S.I. 2011/73), regs. 1, **6(a)**
- F2** Reg. 9(4)(5) substituted (9.6.2015) by The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2015 (S.S.I. 2015/185), regs. 1, **9(a)**
- F3** Reg. 9(7)-(9) substituted for reg. 9(7)(8) (9.6.2015) by The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2015 (S.S.I. 2015/185), regs. 1, **9(b)**

Commencement Information

- I1** Reg. 9 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, Section 9.