

## **POLICY NOTE**

### **THE LESS FAVOURED AREA SUPPORT SCHEME (SCOTLAND) AMENDMENT REGULATIONS 2015**

#### **SSI 2015/185**

This note explains the purpose of the above SSI which is made in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972. The instrument is subject to negative resolution procedure. The SSI amends the Less Favoured Area Support Scheme (Scotland) Regulations 2010 No. 273 ('the principal Regulations') which came into force on 2 July 2010.

#### **Policy Objectives**

The purpose of the SSI is to amend the principal Regulations to extend the Less Favoured Areas Support Scheme (LFASS) to 2017 as permitted by Regulation (EU) No 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 ("the Rural Development Regulation"). It also gives provision for farmers and crofters to access LFASS payments, where they could not do so previously in certain circumstances. Finally, it introduces financial discipline to allow LFASS payments to remain within budget.

#### **Background**

The Rural Development Regulation provides for an area based support scheme for Areas facing Natural Constraint (ANC) in recognition of the permanent natural disadvantage they face due to a range of biophysical criteria. Payments are to compensate farmers for income foregone and additional costs linked to the disadvantage in order to encourage the use of agricultural land, contribute to maintaining the countryside as well as to maintaining and promoting sustainable farming systems.

The current classification in Scotland is Less Favoured Areas (LFA), and 85% of agricultural land is classified as being within an LFA. LFASS has a high profile and is worth in the region of £65.5 million per year to around 11,300 farmers and crofters. The Rural Development Regulation permits Scotland to continue with the LFA designation, and the LFASS eligibility criteria and payment calculations until 2018, when the scheme and designation must meet the new framework as set out in the Rural Development Regulation.

The terms of LFASS are reflected in the new Scotland Rural Development Programme for 2014-2020 ("the SRDP", available at <http://www.gov.scot/Topics/farmingrural/SRDP>) which must be approved by the European Commission. Final, formal approval is expected by the end of May 2015. The Commission have indicated that our proposal to continue with LFASS until 2018 is in line with the regulations.

## **Description of LFASS 2010 – 2014**

Key features of the 2010 – 2014 scheme implemented in the principal Regulations are that:

- an applicant must actively farm eligible land for the majority of the qualifying year;
- it is historically based using values, including stocking densities, derived from area and livestock data declared by farmers in 2009;
- payments are made per hectare of eligible land, adjusted for LFASS grazing category and any minimum or maximum stocking density restrictions;
- payment rates are varied according to LFASS Fragility area, i.e., Very Fragile, Fragile or Standard, according to the location of the applicant's main farm.

## **Main changes made by these Regulations**

The SSI amends the principal Regulations to make provision for payments for the period 2015-2017. This has included an updating of relevant regulatory references (in light of the new EU CAP rules), revision of the land use codes and an updating of the interest payable when recovering irregular LFASS payments. It has also included a provision to meet the requirements of Article 31(2) of the Rural Development Regulation, which states that payments for LFASS from 2015 onwards can only be made to active farmers, within the meaning of CAP Pillar 1 and Regulation (EU) No 1307/2013.

As with previous scheme years, recipients of LFASS will be obliged to meet the requirements of cross-compliance on their holding throughout the scheme year. The previous obligation to continue using the eligible land for at least five years was removed as from LFASS 2014 in line with the requirements of Regulation (EU) No 1310/2013, and in light of the Rural Development Regulation there is no such obligation either for 2015-2017.

The amendment SSI also introduces an increase in flexibility to bring in active farmers in an LFA area who were unable to access LFASS payments as they did not meet the conditions of the 2009 historic base year. This means farmers who did not have the right kind of land or stock in 2009, will now be able to base historic values on eligible land and eligible livestock they maintained in 2013. They will still be required to meet all other applicable scheme eligibility criteria and conditions.

Finally, the amendment provides for a process to enable the the reduction of the maximum payment rates set out in the principal Regulations where the financial resources available are insufficient to make LFASS payments, to ensure that the annual budget (which is co-financed with EU monies as set out in the SRDP) of £65.5m is respected.

## **Timing of the 2015 SSI**

LFASS claims will be submitted by farmers and crofters as part of the Single Application Form (SAF) by 15 June 2015. The amendments made by the SSI are required to be in force to provide a legal basis for forthcoming verifications and inspections for applications received through the 2015 SAF. Payments in respect of claims received in 2015 will be made in 2016.

## **Financial Effects**

The change affected by the amendment SSI has no impact on the existing budget.

## **Consultation**

LFASS from 2015 is a measure of the SRDP. The SRDP has been in development, in conjunction with stakeholders, over the last 3 years. This process has included a stakeholder ANC Working Group feeding into the SRDP design, two public consultations, both of which included consideration of the future design of LFA support and regular bi-laterals with key stakeholders.

Stakeholders have supported the continuation of the current LFA scheme in the short term, and appreciate that the scheme and designation must be amended by 2018. Stakeholders have also welcomed the new flexibility for farmers and crofters that previously could not access LFASS, who may qualify for a payment from 2015. Finally, stakeholders accept the need to introduce financial discipline to stay within the annual budget.

The Scottish Government will review LFASS in line with the Rural Development Regulation and will issue a separate consultation once the details and options for Scotland are clear.

Scottish Government Agriculture, Food and Rural Communities Directorate