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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 98**

**AGRICULTURE**

**The Less Favoured Area Support Scheme  
(Scotland) Amendment Regulations 2019**

<i>Made</i>	- - - -	<i>19th March 2019</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>20th March 2019</i>
<i>Coming into force</i>	- -	<i>15th May 2019</i>

The Scottish Ministers make these Regulations in exercise of the powers conferred on them 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 2019 and come into force on 15 May 2019.

**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 to 8.

3. In regulation 2(1) (interpretation), after the definition of “Scheme 2018 payment” insert—
- ““Scheme 2019 payment” means the sum to which the applicant is entitled in respect of the period 1st January 2019 to 31st December 2019;
  - “Scheme 2020 payment” means the sum to which the applicant is entitled in respect of the period 1st January 2020 to 31st December 2020”.

4. In regulation 8(1) (Determination of Unadjusted Payable Area), for “The unadjusted payable area” substitute “Subject to regulation 8A, the unadjusted payable area”.

5. After regulation 8 insert—

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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 \(c.7\)](#), Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar 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](#), [S.S.I. 2012/24](#), [S.S.I. 2013/9](#), [S.S.I. 2015/185](#), [S.S.I. 2018/122](#), [S.S.I. 2018/391](#).

**“Adjustment of the area of eligible land for a Scheme Year commencing on or after 1st January 2019**

**8A.**—(1) Paragraph (2) applies for the purpose of the calculation in regulation 8(1) of the area of eligible land (in respect of a Scheme Year commencing on or after 1st January 2019.

- (2) Where the area of eligible land (subject to regulation 9(2) and (3)) exceeds—
  - (a) 4,000 hectares, a reduction of 10% is to be applied to the number of hectares exceeding that amount;
  - (b) 10,000 hectares, a reduction of 25% is to be applied to the number of hectares exceeding that amount (in addition to the application of the reduction in subparagraph (a)).
- (3) 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),

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).”.

- 6. In regulation 10(2) (enterprise mix) for “or the Scheme 2018 payment” substitute “, the Scheme 2018 payment, the Scheme 2019 payment, or the Scheme 2020 payment”.
- 7. In regulation 11 (rate of payment of less favoured area support)—
  - (a) in paragraph (1)—
    - (i) for “second column” substitute “second, third or fourth column”,
    - (ii) before “fragility category” insert “Scheme Year and the”,
  - (b) in paragraph (2)—
    - (i) for “second column” substitute “second, third or fourth column”,
    - (ii) before the words “fragility category” insert “Scheme Year and the”.
- 8.—(1) Schedule 5 (rates of payment for less favoured area support) is amended in accordance with paragraphs (2) and (3).
  - (2) in Part I (more disadvantaged land), for the existing table substitute—

<i>FRAGILITY CATEGORY</i>	<i>RATE</i>	<i>RATE</i>	<i>RATE</i>
	Scheme 2011 payment, Scheme 2012 payment, Scheme 2013 payment, Scheme 2014 payment, Scheme 2015 payment, Scheme 2016 payment, Scheme 2017 payment, Scheme 2018 payment	Scheme 2019 payment	Scheme 2020 payment

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<i>FRAGILITY CATEGORY</i>	<i>RATE</i>	<i>RATE</i>	<i>RATE</i>
<i>Very Fragile (Islands)</i>	£71.35	£57.08	£28.54
<i>Fragile (Mainland)</i>	£62.10	£49.68	£24.84
<i>Standard</i>	£52.16	£41.72	£20.86

(3) in Part II (less disadvantaged land), for the existing table substitute—

<i>FRAGILITY CATEGORY</i>	<i>RATE</i>	<i>RATE</i>	<i>RATE</i>
	Scheme 2011 payment, Scheme 2012 payment, Scheme 2013 payment, Scheme 2014 payment, Scheme 2015 payment, Scheme 2016 payment, Scheme 2017 payment, Scheme 2018 payment	Scheme 2019 payment	Scheme 2020 payment
<i>Very Fragile (Islands)</i>	£63.00	£50.40	£25.20
<i>Fragile (Mainland)</i>	£54.51	£43.60	£21.80
<i>Standard</i>	£34.12	£27.29	£20.83

St Andrew's House, Edinburgh  
19th March 2019

*FERGUS EWING*  
A member of the Scottish Government

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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 principal Regulations”) to comply with Regulation (EU) No 1305/2013 of the European Parliament and of the Council<sup>(3)</sup> (“the Rural Development Regulation”) (as last amended by Regulation 2019/288 of the European Parliament and of the Council<sup>(4)</sup>).

Regulations 2, 3, 6, 7 and 8 amend the principal Regulations to make provision in Scotland for the administration of the less favoured area support (“LFAS”) scheme under the Rural Development Regulation for scheme years 2019 and 2020. Article 31 of the Rural Development Regulation requires that payments under the LFAS scheme are reduced progressively until 2020. In particular, regulation 8 updates the payment rates of LFAS payments for scheme years 2019 and 2020 by inserting a new table into schedule 5 of the principal Regulations reducing the rate for scheme year 2019 to 80% of the previous rate and to 40% of the previous rate for scheme year 2020 (taking account of €25 per hectare minimum payment rate as permitted by the Rural Development Regulation).

Article 31(4) of the Rural Development Regulation also requires a reduction in payment under LFAS above a threshold level of area per holding. In order to achieve this, an additional payment calculation has been introduced by virtue of regulations 4 and 5 of these Regulations which inserts new regulation 8A into the principal Regulations. The eligible land that an applicant has over 4000 hectares will be reduced by 10% for the purposes of calculating LFAS. The eligible land an applicant has over 10,000 hectares will be reduced by 25%. The relevant reduction is apportioned across each grazing category (new regulation 8A(3)).

A business and regulatory impact assessment (BRIA) has been prepared for these Regulations and will be placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Government Directorate for Agriculture and Rural Economy, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD.

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(3) OJ L. 347 20.12.2013, p487.

(4) OJ L. 53/14 22.2.2019.