

REGULATORY APPRAISAL

AGRICULTURE, WALES

THE COMMON AGRICULTURAL POLICY SINGLE PAYMENT AND SUPPORT SCHEMES (CROSS-COMPLIANCE) (AMENDMENT) (WALES) REGULATIONS 2007

Background

1. Cross compliance is a set of environmental standards and conditions required by the European Commission that farmers must meet in order to receive full payment under the Single Payment Scheme. Cross compliance comprises two elements:
 - compliance with Statutory Management Requirements (SMRs) – i.e. 19 specific standards established in EU Directives and Regulations, phased in over three years (nine in 2005, seven in 2006 and three in 2007). Most of the 19 SMRs relate to existing laws and address environmental, public and plant health, animal health and welfare and livestock identification and tracing objectives; and
 - maintenance of land in Good Agricultural and Environmental Condition (GAEC) within a framework established in EU Regulations.
2. The SMRs that came into force on 1 January 2007 are:

SMR 16	Welfare standards for the protection of calves;
SMR 17	Welfare standards for the protection of pigs; and
SMR 18	Welfare standards for the protection of animals kept for farming purposes
3. The EC Regulations require that a Competent Control Authority (CCA) is appointed to carry out cross compliance inspections for each SMR. The Specialist Control Bodies (SCBs), who are responsible nationally for the delivery of compliance with Community obligations for SMRs and GAEC laid down in various EU environmental legislation, are designated as the CCA in the Regulations by default. The Regulations state that the Paying Agency (i.e. in Wales, the National Assembly) may only be nominated as the CCA if the Member State can guarantee that it can carry out inspections to the same standard as the relevant SCB.
4. The CCA are responsible for reporting breaches of the relevant cross compliance standard to the Paying Agency who, in turn, is responsible for decisions relating to deductions of payment. Among other requirements, the CCA must select 1% of farms for inspection of those standards for which the body is responsible, unless minimum control rates already apply in the EU legislation that contains the SMRs.

Purpose and intended effect of the measure

5. These Regulations introduce changes to the Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) Regulations 2004, They:

- establish the Secretary of State for the Department for Environment, Food and Rural Affairs, on behalf of the State Veterinary Service (SVS), as the Competent Control Authority (CCA) for the three Statutory Management Requirements (SMRs), which came into force on 1 January 2007. Therefore, the SVS, as the specialist control body for animal welfare enforcement, will be appropriately appointed to assume the responsibilities of the CCA;
- strengthen the current requirements by extending the definition of an agri-environment commitment, to include already pertinent regulations and acts such as the commitments under measures falling under Council Regulation (EC) No. 1698/2005 and the relevant sections of the Countryside Acts of 1949 and 1968;
- make a change to the post-harvest management of land in order to provide additional flexibility for farmers in meeting the requirements with regards to preparing land as a seedbed for crop. The change will clarify that the crop must be sown within a period of ten days beginning with the day after final seedbed preparation, or if sowing within that ten day period would mean breaching the requirements in paragraph 3(1) of the Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) Regulation 2004, the crop must be sown as soon as is practicable after it ceases to be waterlogged. However, if there are severe weather conditions making it impracticable to sow within that ten day period, the crop must be sown as soon as is practicable after the severe weather conditions cease;
- strengthen the current requirements by re-defining and extending the powers of authorised persons (e.g. Assembly Government field inspectors) with regards to the collection of evidence of any non-compliance of the cross compliance requirements. These Regulations specify that an authorised person may: remove a carcass found on the land for the purpose of carrying out a post-mortem examination on it; take a photograph of anything on the land and remove anything, which he or she reasonably believes to be evidence of any non-compliance; and
- update references to reflect European Council and Commission amending Regulations made since the coming into force of the 2004 Regulations.

Risk Assessment

6. Farmers must meet cross compliance requirements in order to claim Single Payment entitlements. The Regulations will make arrangements for the administration and enforcement of the three Statutory Management Requirements (SMRs) that came into force on 1 January 2007. Failure to make these Regulations would result in the European legislation not being implemented, leading to a high risk of disallowance from the European Commission. Disallowance is a financial penalty for not respecting EC rules (as set out in the

appropriate Regulations) or payment deadlines, levied through refusal of EC advances.

Options

7. In respect of this legislation the “Do Nothing option” is not an option as it would lead ultimately to infraction proceedings against the National Assembly for Wales by the European Commission. Therefore, the “Make the Legislation” option, to implement the changes required to comply with European legislation, is being recommended.

Benefits

8. Implementing these Regulations will provide:

- legal certainty in relation to administration and enforcement of the additional Statutory Management Requirements (SMRs);
- additional flexibility for farmers in relation to post-harvest management of land and in particular with regards to preparation of land as a seedbed for crops; and
- greater powers to authorised persons (e.g. an Assembly Government field inspector) to establish whether there is evidence of any non-compliance.

Costs

9. The full costs of implementing these Regulations cannot be quantified at this stage. This is because the State Veterinary Service (SVS) does not currently have sufficient information to accurately predict the likely costs of welfare inspections in 2007. However, by maximising the overlap with current welfare inspection effort the SVS plan to keep the costs as low as possible and seek to ensure they are contained within the existing Rural Payment Division budget allocated to the SVS for conducting this work in 2007. The current budget stands at £8,000. There will be no financial implications for farmers in Wales.

Competition Assessment

10. The implementation of these Regulations is unlikely to distort or affect competition in the market.

Consultation

With Stakeholders

11. No formal consultation was undertaken in relation to these proposed Regulations as the changes are minor technical amendments. However, a letter of intent was sent to stakeholders to inform them of the proposed amendments on 5 February 2007. No comments have been received. A list of stakeholders is attached at Annex A.

With Subject Committee

12. The proposed Regulations were notified to the Environment, Planning and Countryside Committee, via the list of forthcoming legislation, on 15 November

2006 (EPC (2) 15-06 (p.4), Annex 3 item No. 156) and have remained on the list ever since. The Regulations were not identified for detailed scrutiny.

Review

13. The Common Agricultural Policy Single Payment Scheme legislation is subject to continual monitoring and reviews by Welsh Assembly Government officials, external specialists in Wales and subject to audit, including by the European Court of Auditors.

Summary

14. Cross compliance is a mandatory requirement of the Single Payment Scheme (SPS). The existing Common Agricultural Policy Single Payment and Support Schemes (Cross - Compliance) (Wales) Regulations need revision in order to designate formally a Competent Control Authority (CCA) for the administration and enforcement of the three animal welfare Statutory Management Requirements (SMRs) that came into force on the 1 January 2007. This is preferable in terms of legal certainty than relying on a purely administrative designation.

Annex A

List of Stakeholders

Organisation

Farmers' Union of Wales
National Parks Association
Royal Society for the Protection of Birds
Carmarthenshire College
Countryside Landowners Association
Countryside Council for Wales
National Farmers Union Wales
CADW
Forestry Commission
Organic Centre Wales
Wales Young Farmers' Club
Environment Agency