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SCOTTISH STATUTORY INSTRUMENTS

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**2014 No. 325**

**AGRICULTURE**

**The Common Agricultural Policy (Cross-  
Compliance) (Scotland) Regulations 2014**

*Made - - - - 19th November 2014*  
*Laid before the Scottish*  
*Parliament - - - - 21st November 2014*  
*Coming into force - - 1st January 2015*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972<sup>M1</sup> and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Scottish Ministers that it is expedient for references to EU instruments in these Regulations to be construed as references to those instruments as amended from time to time.

**Marginal Citations**

**M1** 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 \(c.7\)](#) (“the 2008 Act”), section 3(3) and 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. Paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act and was amended by the 2008 Act, Schedule, Part 1.

**Citation, commencement and extent**

**1.**—(1) These Regulations may be cited as the Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014 and come into force on 1st January 2015.

(2) These Regulations extend to Scotland only.

**Interpretation**

**2.**—(1) In these Regulations—

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014. (See end of Document for details)*

“authorised person” means any person authorised by the Scottish Ministers or the Scottish Environment Protection Agency to act in matters arising under these Regulations, the Horizontal Regulation, the Horizontal Delegated Regulation or the Horizontal Implementing Regulation;

“beneficiary” has the same meaning as in Article 2(1) of the Horizontal Delegated Regulation <sup>M2</sup>;

[<sup>F1</sup>“claim year” has the meaning given in section 1(7) of the Direct Payments to Farmers (Legislative Continuity) Act 2020 <sup>M3</sup>;

“control report” means a control report pursuant to Article 72 of the Horizontal Implementing Regulation, and “provisional control report” is a draft control report detailing all the information required in a control report;

“holding” has the same meaning as in Article 91 of the Horizontal Regulation;

“non-compliance” has the same meaning as at point (2)(b) in Article 2(1) of the Horizontal Delegated Regulation;

“Scottish Environment Protection Agency” means the Scottish Environment Protection Agency established under section 20 of the Environment Act 1995 <sup>M4</sup>;

“the Horizontal Regulation” means Regulation (EU) No 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 as amended from time to time <sup>M5</sup>;

“the Horizontal Delegated Regulation” means Commission Delegated Regulation (EU) No 640/2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance as amended from time to time <sup>M6</sup>; and

“the Horizontal Implementing Regulation” means Commission Implementing Regulation (EU) No 809/2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance as amended from time to time <sup>M7</sup>.

(2) Other expressions used in these Regulations have, unless the context otherwise requires, the meaning as in the Horizontal Regulation, the Horizontal Delegated Regulation and the Horizontal Implementing Regulation.

[<sup>F2</sup>(2A) References in these Regulations to the Horizontal Delegated Regulation, the Horizontal Implementing Regulation and the Horizontal Regulation are, to the extent that they relate to direct payments for claim year 2020, references to those Regulations as they exist in domestic law.]

(3) Anything done under these Regulations to be done in writing includes an electronic communication as defined in section 15(1) of the Electronic Communications Act 2000 <sup>M8</sup> which has been recorded and is consequently capable of being reproduced.

#### Textual Amendments

- F1** Words in reg. 2(1) inserted (31.1.2020) by [The Direct Payments to Farmers \(Legislative Continuity\) \(Scotland\) \(Miscellaneous Amendments\) Regulations 2020 \(S.S.I. 2020/18\)](#), regs. 1(2), **2(2)(a)**
- F2** Reg. 2(2A) inserted (31.1.2020) by [The Direct Payments to Farmers \(Legislative Continuity\) \(Scotland\) \(Miscellaneous Amendments\) Regulations 2020 \(S.S.I. 2020/18\)](#), regs. 1(2), **2(2)(b)**

#### Marginal Citations

- M2** The definition of “beneficiary” is found at point (1) of Article 2(1).  
**M3** 2020 c.2.  
**M4** 1995 c.25.  
**M5** OJ L 347, 20.12.2013, p.549 as amended by Regulation (EU) No 1310/2013 (OJ L 347, 20.12.2013, p.865).  
**M6** OJ L 181, 20.6.2014, p.48.  
**M7** OJ L 227, 31.7.2014, p.69.  
**M8** 2000 c.7. Section 15(1) was amended by the [Communications Act 2003 \(c.21\)](#), [section 406](#) and Schedule 17, paragraph 158.

#### Cross-compliance requirements

3.—(1) The Scottish Ministers are the competent national authority for the purposes of providing the list of statutory management requirements as required by Article 95 of the Horizontal Regulation.

(2) The standards for good agricultural and environmental condition set out in Part 2 of the Schedule apply as minimum requirements for the purposes of Article 94 of, and Annex II to, the Horizontal Regulation.

#### Competent control authority

4.—(1) The Scottish Ministers are the competent control authority for the purposes of Article 67 of the Horizontal Implementing Regulation.

(2) The Scottish Ministers may require the Scottish Environment Protection Agency to carry out controls for the purposes of Chapter 1 of Title III and Title V of the Horizontal Implementing Regulation.

(3) The Scottish Environment Protection Agency must—

- (a) send to the Scottish Ministers a provisional control report; and
- (b) for the purposes of Article 38(5) of the Horizontal Delegated Regulation where a non-compliance is established as a consequence of any kind of controls, notify the Scottish Ministers of any non-compliance established.

(4) The Scottish Ministers must, pursuant to Article 72 of the Horizontal Implementing Regulation, establish the final control report and where the Scottish Ministers are not the paying agency, send the control report to the paying agency.

#### Powers of authorised persons

5.—(1) An authorised person may exercise any of the powers specified in this regulation for the purpose of—

- (a) providing a control report or a provisional control report;
- (b) establishing whether there has been a non-compliance; or
- (c) enforcing these Regulations, the Horizontal Regulation, the Horizontal Delegated Regulation or the Horizontal Implementing Regulation.

(2) An authorised person may, on producing if so required a duly authenticated document showing that person's authority, at all reasonable hours enter any land (excluding any premises used wholly or mainly as a private dwelling).

(3) If a sheriff, stipendiary magistrate or justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry into any premises by an authorised person under this regulation and either that—

*Status: Point in time view as at 31/12/2020.*

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- (a) entry has been refused or a refusal is reasonably expected, and that person has given notice to the occupier of his or her intention to apply for an entry warrant; or
- (b) a request for entry, or the giving of such a notice, would defeat the object of entry, or entry is urgently required, or the premises are unoccupied, or the occupier is temporarily absent and it would defeat the object of entry to await the occupier's return,

the sheriff, stipendiary magistrate or justice may, by signed warrant, valid for a period of no more than one month, authorise that person, together with any person who may accompany an authorised person by virtue of paragraph (5), to enter the premises, if need be by reasonable force.

(4) An authorised person, may—

- (a) carry out any inquiries, checks, examinations, measurements and tests;
- (b) take samples;
- (c) inspect all or any part of the land farmed, laid fallow or withdrawn from agricultural production by a beneficiary;
- (d) inspect any crops, livestock, machinery or equipment or any other thing;
- (e) mark any animal or other thing for identification purposes;
- (f) have access to, inspect and copy any document or record (in whatever form it is held) or remove such a record or document to enable it to be copied or retained as evidence;
- (g) have access to, inspect and check the operation of any computer and any associated apparatus, or material which is or has been in use in connection with a document or record; and for this purpose require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford the authorised person such assistance as may reasonably be required and, where a document or record is kept by means of a computer, require the document or record to be produced in a form in which it can be taken away;
- (h) remove a carcass found on the land for the purpose of carrying out a post-mortem examination on it;
- (i) take a photograph or any other digital record of anything on the land; or
- (j) remove anything reasonably believed to be evidence of any non-compliance.

[<sup>F3</sup>(5) An authorised person entering any premises by virtue of this regulation may be accompanied by such other person as the authorised person considers necessary.]

(6) A person accompanying an authorised person may also exercise any of the powers conferred on an authorised person by virtue of paragraph (4).

(7) An authorised person who enters any unoccupied premises must leave them as effectively secured as they were before those premises were entered.

(8) An authorised person who enters any land or premises under a power under other legislation may exercise any of the powers specified in this regulation for the purpose of enforcing these Regulations.

#### **Textual Amendments**

**F3** Reg. 5(5) substituted (31.12.2020) by [The Common Agricultural Policy \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/60\)](#), regs. 1(1)(b), 5; 2020 c. 1, Sch. 5 para. 1(1)

### **Assistance to authorised persons**

6.—(1) A beneficiary or any employee, agent, contractor or tenant of a beneficiary must give an authorised person or a person accompanying an authorised person (in this regulation “a relevant person”) such assistance as the relevant person may reasonably request so as to enable the relevant person to exercise any power conferred by regulation 5.

(2) Such assistance may include the gathering of livestock and presenting them for inspection in a safe and secure manner.

### **Offences and penalties**

7.—(1) It is an offence for any person to—

- (a) obstruct an authorised person (or a person accompanying an authorised person and acting under the authorised person's instructions) in the exercise of a power conferred by regulation 5;
- (b) fail without reasonable excuse to comply with a request made under regulation 6; or
- (c) supply to an authorised person (or a person accompanying an authorised person and acting under the authorised person's instructions) any information, knowing it to be false or misleading.

(2) Nothing in paragraph (1)(b) is to be construed as requiring any person to answer any question if to do so might incriminate that person.

(3) A person who commits an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Offences by bodies corporate, etc.**

8.—(1) Where—

- (a) an offence under regulation 7 has been committed by a body corporate or a Scottish partnership or other unincorporated association; and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
  - (i) a relevant individual; or
  - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association commits the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” means—

- (a) in relation to a body corporate—
  - (i) a director, manager, secretary or other similar officer of the body;
  - (ii) where the affairs of the body are managed by its members, a member;
- (b) in relation to a Scottish partnership, a partner; or
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

### **Amendment to the Rural Payments (Appeals) (Scotland) Regulations 2009**

<sup>F49</sup>. . . . .

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014. (See end of Document for details)

#### Textual Amendments

**F4** Reg. 9 revoked (12.6.2015) by [The Rural Payments \(Appeals\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/194\)](#), regs. 1(1), **11(1)(b)(iii)** (with reg. 11(2)(3)).

#### Revocation, saving and transitional provision

**10.**—(1) Subject to paragraphs (2) and (3), the Common Agricultural Policy Schemes (Cross-Compliance) (Scotland) Regulations 2011 <sup>M9</sup> and the Common Agricultural Policy Schemes (Cross-Compliance) (Scotland) Amendment Regulations 2014 <sup>M10</sup> are revoked.

(2) The Common Agricultural Policy Schemes (Cross-Compliance) (Scotland) Regulations 2011 continue to apply in relation to a non-compliance (within the meaning of those Regulations) established in respect of any period before 1st January 2015.

(3) Where a person is authorised by the Scottish Ministers under and for the purposes of the Common Agricultural Policy Schemes (Cross-Compliance) (Scotland) Regulations 2011 and that authorisation has effect immediately before 1st January 2015, that authorisation continues to have effect as if it were an authorisation under and for the purposes of these Regulations.

#### Marginal Citations

**M9** [S.S.I. 2011/415](#).

**M10** [S.S.I. 2014/6](#).

St Andrew's House,  
Edinburgh

*RICHARD LOCHHEAD*  
A member of the Scottish Government

## SCHEDULE

Regulation 3(2)

### STANDARDS FOR GOOD AGRICULTURAL AND ENVIRONMENTAL CONDITION

## PART 1

### General Interpretation

In this Schedule—

“the 2003 Act” means the Water Environment and Water Services (Scotland) Act 2003 <sup>M11</sup>;

“the 2011 Regulations” means the Water Environment (Controlled Activities) (Scotland) Regulations 2011 <sup>M12</sup>;

“chemical fertiliser” means fertiliser which is manufactured by an industrial process;

[<sup>F5</sup>“invasive species” means giant hogweed (*heracleum mantegazzianum*), Japanese knotweed (*fallopia japonica*), Himalayan balsam (*impatiens glandulifera*) and rhododendron (*rhododendron ponticum*);]

“nitrogen fertiliser” means any substance containing a nitrogen compound utilised on land to enhance growth or vegetation;

“organic manure” means—

- (a) livestock manure; and
- (b) nitrogen fertiliser, not being livestock manure or chemical fertiliser, derived from organic matter, and includes sewage sludge and other organic wastes;

“pesticides” means anything used for destroying pests and includes herbicides, fungicides, insecticides and other biocides;

[<sup>F6</sup>“relevant period” means the period beginning on the day the land is prepared for planting a hedge and terminating at the end of the third growing season following the planting of that hedge;]

“rough grazings and other semi-natural areas” means land containing semi-natural vegetation including heathland, heather moorland, bog, unimproved grassland and rough grassland which is used or suitable for grazing; and

“surface water” has the same meaning as in section 3(3) of the 2003 Act.

#### Textual Amendments

**F5** Words in sch. Pt. 1 inserted (16.3.2015) by [The Common Agricultural Policy \(Direct Payments etc.\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/58\)](#), regs. 1(1), **27(2)**.

**F6** Words in sch. Pt. 1 inserted (27.6.2015) by [The Common Agricultural Policy \(Direct Payments etc.\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/215\)](#), regs. 1(3), **11**.

#### Marginal Citations

**M11** 2003 asp 3, to which there are amendments not relevant to these Regulations.

**M12** S.S.I. 2011/209, as amended by S.S.I. 2012/360, S.S.I. 2013/176, S.S.I. 2013/323 and S.S.I. 2013/325.

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014. (See end of Document for details)

#### Textual Amendments

- F5** Words in sch. Pt. 1 inserted (16.3.2015) by [The Common Agricultural Policy \(Direct Payments etc.\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/58\)](#), regs. 1(1), **27(2)**.
- F6** Words in sch. Pt. 1 inserted (27.6.2015) by [The Common Agricultural Policy \(Direct Payments etc.\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/215\)](#), regs. 1(3), **11**.

#### Marginal Citations

- M11** [2003 asp 3](#), to which there are amendments not relevant to these Regulations.
- M12** [S.S.I. 2011/209](#), as amended by [S.S.I. 2012/360](#), [S.S.I. 2013/176](#), [S.S.I. 2013/323](#) and [S.S.I. 2013/325](#).

## PART 2

### Standards for Good Agricultural and Environmental Condition

#### Establishment of buffer strips along water courses

- 1.—(1) Organic manure must not be applied to any land which is situated within—
- (a) 10 metres of any surface water; or
  - (b) 50 metres of any well, borehole or similar work sunk into underground strata for the purposes of any water supply.
- (2) No field heap is to be located within [<sup>F7</sup>, or on any land in a manner which will likely result in organic manure being located within,] —
- (a) 10 metres of any surface water; or
  - (b) 50 metres of any well, borehole or similar work sunk into underground strata for the purposes of any water supply.
- (3) Nitrogen fertiliser must not be applied to any land if there is a significant risk of nitrogen entering surface water, taking into account—
- (a) the slope of the land, particularly if greater than 12 degrees;
  - (b) any ground cover;
  - (c) the proximity of the land to any surface water;
  - (d) weather conditions; and
  - (e) the type of fertiliser being applied.
- (4) Chemical fertiliser must not be applied to any land in any case, location or manner that makes it likely that the fertiliser will directly enter any surface water.
- (5) Except where sub-paragraph (6) [<sup>F8</sup> or (7)] applies, the cultivation of land or the direct application of pesticides must not take place within 2 metres of the top of the bank of any surface water.
- [<sup>F9</sup>(6) This sub-paragraph applies where pesticides are applied to land to control—
- (a) injurious weeds to which the Weeds Act 1959 applies;
  - (b) invasive species; or
  - (c) if the prior written consent of the Scottish Ministers has been given, other plant species.]

[<sup>F10</sup>(7) This sub-paragraph applies where the cultivation of land takes place for the purpose of establishing—



- (a) a green cover on that land, where it does not already have a green cover; or
- (b) a hedge (as defined in paragraph 7(7)(a)) during the relevant period.]

[<sup>F11</sup>(8) In this paragraph, “field heap” means a store or stack of organic manure which is a freestanding heap which does not slump or produce free draining liquid from within the stacked material.]

#### Textual Amendments

- F7** Words in sch. Pt. 2 para 1(2) inserted (15.5.2018) by [The Common Agricultural Policy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/122\)](#), **regs. 1**, 14(a)(i).
- F8** Words in sch. Pt. 2 para 1(5) inserted (27.6.2015) by [The Common Agricultural Policy \(Direct Payments etc.\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/215\)](#), **regs. 1(3)**, 12(a)(i).
- F9** sch. Pt. 2 para 1(6) substituted (27.6.2015) by [The Common Agricultural Policy \(Direct Payments etc.\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/215\)](#), **regs. 1(3)**, 12(a)(ii).
- F10** sch. Pt. 2 para 1(7) inserted (27.6.2015) by [The Common Agricultural Policy \(Direct Payments etc.\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/215\)](#), **regs. 1(3)**, 12(a)(iii).
- F11** sch. Pt. 2 para 1(8) inserted (15.5.2018) by [The Common Agricultural Policy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/122\)](#), **regs. 1**, 14(a)(ii).

#### Use of water for irrigation

2.—(1) The abstraction of water for irrigation must be carried out in compliance with the authorisation procedures set out in Part 2 of the 2011 Regulations.

(2) In this paragraph, “abstraction” has the same meaning as in section 20(6) of the 2003 Act.

#### Protection of groundwater against pollution

3.—(1) A beneficiary must not, when carrying on any agricultural activity—

- (a) cause or permit the direct or indirect discharge into groundwater; or
- (b) do anything likely to cause a direct or indirect discharge into groundwater,

of any substances or families or groups of substances specified in the lists in the Table in Part 3 of this Schedule, unless it is authorised under the 2011 Regulations and carried out in accordance with that authorisation.

(2) A beneficiary must, when carrying on any agricultural activity, comply with the requirements of a notice issued under regulation 32(2) of the 2011 Regulations (enforcement notices) in relation to the direct or indirect discharge into groundwater of any substances or families or groups of substances specified in the lists in the Table in Part 3 of this Schedule.

#### Minimum soil cover

4.—(1) Subject to sub-paragraph (2), where land has been cropped with any crop which has been harvested, a beneficiary must ensure that throughout the winter following that harvest such land is covered by the stubble of the harvested crop, by another crop or by grass.

(2) Sub-paragraph (1) does not apply to the extent that the prevailing agronomic or weather conditions and the condition of the composition of the soil of that land—

- (a) after harvest are such that compliance with that sub-paragraph would be detrimental to the use of the land for agricultural production; or
- (b) are such that they would allow cultivation to be carried out on the land in preparation for the following year's crop rotation before the end of winter.

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014. (See end of Document for details)*

(3) Final seedbeds must only be created for as short a period as possible before the next crop is planted, to avoid significant erosion of the soil, taking account of prevailing agronomic or weather conditions.

(4) In this paragraph, “winter” means the period beginning on the day after the crop has been harvested and ending on the last day of February in the calendar year following that harvest.

#### **Minimum land management reflecting site specific conditions to limit erosion**

5.—(1) A beneficiary must [<sup>F12</sup>limit] the erosion of the banks of watercourses, at watering points or feeding areas, from overgrazing or heavy poaching by livestock.

(2) In the case of late harvested crops where agronomic or weather conditions prevent the subsequent crop or cover from being sown, a beneficiary must put in place measures to limit soil erosion.

(3) In this paragraph, “heavy poaching” means the cutting up of turf to a significant degree as a result of trampling by livestock.

#### **Textual Amendments**

**F12** Word in sch. Pt. 2 para 5(1) substituted (15.5.2018) by [The Common Agricultural Policy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/122\)](#), **regs. 1, 14(b)**.

#### **Maintenance of soil organic matter**

6.—(1) A beneficiary must not burn stubble except for the purposes of disease control or elimination of plant pests.

(2) A beneficiary who makes muirburn must—

- (a) provide at the place where the muirburn is about to take place, and maintain there whilst the muirburn is undertaken, sufficient staff and equipment to control and regulate burning operations so as to prevent damage to any woodlands on or adjoining the land where the operations are taking place or to any adjoining lands, march fences or other things; and
- (b) do so with due care so as not to cause damage to any woodlands on or adjoining the land where the operations are taking place, or to any adjoining lands, woodlands, march fences or other things.

(3) A beneficiary must not plough up rough grazings and other semi-natural areas without approval under [<sup>F13</sup>the Agriculture, Land Drainage and Irrigation Projects (Environmental Impact Assessment) (Scotland) Regulations 2017].

#### **Textual Amendments**

**F13** Words in sch. Pt. 2 para. 6(3) substituted (28.3.2019) by [The Common Agricultural Policy \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/60\)](#), **regs. 1(1)(a), 2**

#### **Retention of landscape features**

7.—(1) Subject to sub-paragraph (3), a beneficiary must not remove or destroy drystone or flagstone dykes, turf and stone-faced banks, walls, hedges (or part of a hedge) and trees (whether in line, in a group or isolated), ponds or watercourses without the prior written consent of—

- (a) the Scottish Ministers; or

- (b) such other authority, by or under any enactment, as may be notified to the beneficiary by the Scottish Ministers when the beneficiary applies to the Scottish Ministers for consent.

[<sup>F14</sup>(2) A beneficiary must not trim a hedge or cut a tree during the period beginning on 1st March and ending on 31st August in any calendar year (“the prohibited period”), except in accordance with sub-paragraph (3A) or (3B).]

[<sup>F15</sup>(3) Written consent under sub-paragraph (1) is not required—

- (a) to widen field entrances to enable access for livestock or farm machinery; or
- (b) where the hedge (or part of a hedge) or tree is—
  - (i) dead;
  - (ii) damaged; or
  - (iii) insecurely rooted,and because of its condition it poses a risk to human safety.]

[<sup>F16</sup>(3A) Trimming a hedge or cutting a tree is permitted during the prohibited period—

- (a) for the purposes of hedgelaying up to and including 31st March; or
- (b) to the extent necessary for the purposes of road safety.

(3B) Trimming a hedge or cutting a tree during the month of August in any calendar year is permitted if—

- (a) the hedge or tree is in a field which during that month has been sown with—
  - (i) a crop of oilseed rape; or
  - (ii) temporary grass; or
- (b) the hedge or tree is in a field which during that month has been sown with any other crop and the Scottish Ministers have given the beneficiary written permission to trim the hedge or cut the tree.]

(4) A beneficiary must not alter, or cause (whether directly or indirectly) the damage or destruction of a monument for the time being included in the Schedule of monuments compiled and maintained under section 1 of the Ancient Monuments and Archaeological Areas Act 1979 <sup>M13</sup> without prior scheduled monument consent within the meaning of that Act.

(5) Except where sub-paragraph (6) applies, the cultivation of land or the direct application of organic manure, chemical or nitrogen fertilisers or pesticides must not take place within 2 metres of the centre line of a hedge.

[<sup>F17</sup>(6) This sub-paragraph applies where—

- (a) the cultivation of land takes place for the purpose of—
  - (i) establishing a green cover on that land, where it does not already have a green cover;
  - (ii) establishing a hedge during the relevant period and, for that purpose, organic manure, chemical or nitrogen fertilisers or pesticides may be applied to the land; or
  - (iii) in calendar year 2015, harvesting any crop that has been established before 1st January 2015;
- (b) organic manure, chemical or nitrogen fertilisers or pesticides are applied to land prior to the harvesting of a crop as mentioned in head (a)(iii); or
- (c) pesticides are applied to land to control—
  - (i) injurious weeds to which the Weeds Act 1959 applies;
  - (ii) invasive species; or

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(iii) if the prior written consent of the Scottish Ministers has been given, other plant species.]

(7) In this paragraph—

(a) “hedge” means any hedge growing in, or adjacent to, any land which forms part of a holding, which has—

(i) a length of at least 20 metres; or

(ii) a length of less than 20 metres where it meets (at an intersection or junction) another hedge at each end,

and any gap of less than 20 metres is to be treated as part of the hedge; and

(b) “remove or destroy” does not include—

(i) trimming a hedge; or

(ii) lopping branches from trees; <sup>F18</sup> ...

[<sup>F19</sup>(c) “hedgelaying” means a traditional method of cultivating hedges where tall saplings are partly cut through near the base and then bent over so that they lie horizontally and make a thick barrier; and

(d) “necessary for the purposes of road safety” includes where a tree or hedge—

(i) overhangs a road, surfaced track or footpath to which the public have access so as to endanger or obstruct the passage of vehicles, pedestrians or horse-riders; or

(ii) obstructs or interferes with the view of drivers of vehicles or the light from a public lamp.]

#### Textual Amendments

**F14** sch. Pt. 2 para 7(2) substituted (15.5.2018) by [The Common Agricultural Policy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/122\)](#), **regs. 1**, 14(c)(i).

**F15** sch. Pt. 2 para 7(3) substituted (15.5.2018) by [The Common Agricultural Policy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/122\)](#), **regs. 1**, 14(c)(ii).

**F16** sch. Pt. 2 para 7(3A)(3B) inserted (15.5.2018) by [The Common Agricultural Policy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/122\)](#), **regs. 1**, 14(c)(iii).

**F17** sch. Pt. 2 para 7(6) substituted (27.6.2015) by [The Common Agricultural Policy \(Direct Payments etc.\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/215\)](#), **regs. 1(3)**, 12(a)(iii).

**F18** Word in sch. Pt. 2 para 7(7)(b)(ii) repealed (15.5.2018) by [The Common Agricultural Policy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/122\)](#), **regs. 1**, 14(c)(iv)(aa).

**F19** sch. Pt. 2 para 7(7)(c)(d) substituted for sch. Pt. 2 para 7(7)(c) (15.5.2018) by [The Common Agricultural Policy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/122\)](#), **regs. 1**, 14(c)(iv)(bb).

#### Marginal Citations

**M13** 1979 c.46, as amended by Schedule 4 to the [National Heritage Act 1983 \(c.47\)](#).

## PART 3

### Protection of Groundwater against Pollution

#### TABLE

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##### LIST I

1. Organohalogen compounds and substances which may form such compounds in the aquatic environment.
2. Organophosphorus compounds.
3. Organotin compounds.
4. Substances which possess carcinogenic mutagenic or teratogenic properties in or via the aquatic environment.
5. Mercury and its compounds.
6. Cadmium and its compounds.
7. Mineral oils and hydrocarbons.
8. Cyanides.

##### LIST II

1. The following metalloids and metals and their compounds:

Zinc

Copper

Nickel

Chrome

Lead

Selenium

Arsenic

Antimony

Molybdenum

Titanium

Tin

Barium

Beryllium

Boron

Uranium

Vanadium

Cobalt

Thallium

Tellurium

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014. (See end of Document for details)

Silver.

2. Biocides and their derivatives not appearing in List I.
  3. Substances which have a deleterious effect on the taste or odour of groundwater, and compounds liable to cause the formation of such substances in groundwater and to render it unfit for human consumption.
  4. Toxic or persistent organic compounds of silicon, and substances which may cause the formation of such compounds in water, excluding those which are biologically harmless or are rapidly converted in water into harmless substances.
  5. Inorganic compounds of phosphorous and elemental phosphorous.
  6. Fluorides.
  7. Ammonia and nitrites.
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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision in Scotland for the administration and enforcement of Regulation (EU) No 1306/2013 of the European Parliament and of the Council (OJ L 347, 20.12.2013, p.549) (“the Horizontal Regulation”), Commission Delegated Regulation (EU) No 640/2014 (OJ L 181, 20.6.2014, p.48) (“the Horizontal Delegated Regulation”) and Commission Implementing Regulation (EU) No 809/2014 (OJ L 227, 31.7.2014, p.69) (“the Horizontal Implementing Regulation”) in relation to cross-compliance under the Common Agricultural Policy.

Regulation 3 designates the Scottish Ministers as the competent national authority for providing beneficiaries (farmers and recipients of support under specific rural development schemes) under Article 95 of Horizontal Regulation with a list of the statutory management requirements (specified in Annex II of that Regulation) and the standards for good agricultural and environmental condition (as required by Article 94 of that Regulation) that they must respect. In so far as the standards for good agricultural and environmental condition are concerned, the framework is set out in Annex II of the Horizontal Regulation and regulation 3 of, and the Schedule to, these Regulations specify those standards in accordance with that framework.

Regulation 4 designates the Scottish Ministers as the competent control authority as required by Article 67 of the Horizontal Implementing Regulation, bearing responsibility for carrying out controls on the requirements or standards in question. Regulation 6 also enables the Scottish Ministers to require the Scottish Environment and Protection Agency (SEPA) to carry out controls. The regulation imposes duties on SEPA to send provisional control reports to the Scottish Ministers and to notify them of any non-compliance with the requirements of these Regulations or the statutory management requirements established as a consequence of any kind of check.

Regulation 5 provides for powers of entry of an authorised person and the power to carry out certain actions or tasks in relation to the land entered. These powers are in addition to any existing power of entry and are for the purpose of providing a control report, establishing whether there has been a non-compliance with the requirements of these Regulations or the statutory management requirements or enforcing these Regulations, the Horizontal Regulation, the Horizontal Delegated Regulation or the Horizontal Implementing Regulation. An authorised

person entering premises under these Regulations may be accompanied by such other person as the authorised person considers necessary or any representative of the European Commission. By virtue of regulation 5(6), the person accompanying the authorised person may also exercise the powers stated at regulation 5(4).

Regulation 6 provides for an authorised person (or a person accompanying an authorised person) to request assistance of the beneficiary or any employee, agent, contractor or tenant of a beneficiary so as to enable the exercise of the powers in regulation 5.

Regulation 7 specifies criminal offences and penalties to enforce cross-compliance for obstructing an authorised person, failing to provide assistance and supplying to an authorised person false or misleading information.

Regulation 8 provides for offences by bodies corporate, Scottish partnerships and unincorporated associations.

Regulation 9 makes a consequential amendment to the Rural Payments (Appeals) (Scotland) Regulations 2009 (which provide for the review and appeal of certain decisions) so that decisions of the Scottish Ministers made in accordance with these Regulations can be subject to review by the Scottish Ministers and appealed to the Scottish Land Court.

Regulation 10 revokes the Common Agricultural Policy Schemes (Cross-Compliance) (Scotland) Regulations 2011 (“the 2011 Regulations”) and the Common Agricultural Policy Schemes (Cross-Compliance) (Scotland) Amendment Regulations 2014 subject to savings. The 2011 Regulations will continue to apply in relation to a non-compliance (within the meaning of these Regulations) established in respect of any period before 1st January 2015 and any authorisation of an authorised person having effect immediately before 1st January 2015 continues to have effect under and for the purposes of these Regulations.

The consequences of non-compliance with the requirements of good agricultural and environmental condition as provided for in these Regulations, or the statutory management requirements are that reductions to subsidy penalties will be imposed, principally under Chapter II of Title VI of the Horizontal Regulation, Title IV of the Horizontal Delegated Regulation and Title V of the Horizontal Implementing Regulation.

Copies of guidance issued by the Scottish Ministers in relation to the standards of the statutory management requirements and good agricultural and environmental condition will be made available at [www.ruralpayments.org](http://www.ruralpayments.org).

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.

**Status:**

Point in time view as at 31/12/2020.

**Changes to legislation:**

There are currently no known outstanding effects for the The Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014.