
SCOTTISH STATUTORY INSTRUMENTS

2014 No. 325

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

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—

“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 ^{M1};

[^{F1}“claim year” has the meaning given in section 1(7) of the Direct Payments to Farmers (Legislative Continuity) Act 2020 ^{M2};

“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 ^{M3};

“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 ^{M4};

“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 ^{M5}; 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 ^{M6}.

(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.

^{F2}(2A)

(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 ^{M7} 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\(2A\)](#) omitted (1.1.2021) by virtue of [The Direct Payments to Farmers \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/460\)](#), regs. 1(2), **8**

Marginal Citations

- M1** The definition of “beneficiary” is found at point (1) of Article 2(1).
- M2** [2020 c.2](#).
- M3** [1995 c.25](#).
- M4** OJ L 347, 20.12.2013, p.549 as amended by Regulation (EU) No 1310/2013 (OJ L 347, 20.12.2013, p.865).
- M5** OJ L 181, 20.6.2014, p.48.
- M6** OJ L 227, 31.7.2014, p.69.
- M7** [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—

- (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.

[^{F3}(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

^{F4}9.

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 ^{M8} and the Common Agricultural Policy Schemes (Cross-Compliance) (Scotland) Amendment Regulations 2014 ^{M9} 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

M8 [S.S.I. 2011/415](#).

M9 [S.S.I. 2014/6](#).

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Changes to legislation:

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