
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.

Status: This is the original version (as it was originally made).

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.

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