

**EXPLANATORY MEMORANDUM
TO
THE COMMON AGRICULTURAL POLICY SINGLE PAYMENT AND SUPPORT
SCHEMES (CROSS COMPLIANCE) (AMENDMENT) REGULATIONS (NORTHERN
IRELAND) 2009**

2009 No. 316

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department of Agriculture and Rural Development [DARD] and is laid before The Northern Ireland Assembly.

1.2 These regulations are made under Section 2(2) of the European Communities Act 1972 and are subject to the negative resolution procedure.

1.3 The rule will come into operation on 2nd October 2009.

2. Purpose

2.1 These Regulations amend the existing Northern Ireland Cross-Compliance Regulations to provide the Department of Agriculture and Rural Development with the opportunity to grant an exemption for up to 2 months from the Cross-Compliance Good Agricultural and Environmental Condition requirement which states that a farmer shall prevent soil from being poached if the Department judges that an area is affected by extreme weather conditions or the weather conditions justify the suspension or variation of the requirement taking into consideration the economic impact of the weather conditions and the environmental effects of any variation or suspension of the requirement. Where the Department judges that such a suspension or variation is necessary it must publish directions to the farmers in the area concerned stating, with reasons, the details and duration of the suspension or variation, and the farmers must comply with the requirement as varied in the directions, or in the case of suspension of the requirement, need not comply with the requirement.

2.2 The Regulations update certain definitions in regulation 2 (interpretation) of the principal Regulations and make consequential amendments to the principal Regulations where references are made to the Council Regulation.

3. Background

3.1 The European Union has established that those in receipt of direct agricultural support have important responsibilities towards the protection of the environment, animal health and welfare, and public health. The Common Agricultural Policy Reform Agreement therefore requires applicants to observe certain conditions in these areas in return for receipt of direct agricultural support (this includes Single Farm Payment). This is known as Cross Compliance.

3.2 One element of Cross Compliance is that applicants must keep their land in Good Agricultural and Environmental Condition. One of the Northern Ireland GAEC requirements is that farmers shall prevent soil from being poached. In 2008 due to unusually wet weather conditions the Ulster Farmers Union lobbied the Department for a suspension of this GAEC requirement. The Department was unable to suspend the requirement as there was no provision for this in the Cross Compliance legislation.

3.3 The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Amendment) Regulations (Northern Ireland) 2009 will enable the Department to grant an exemption for a period of not more than 2 months from the Cross-Compliance Good Agricultural and Environmental Condition requirement which states that a farmer shall prevent soil from being poached if the Department judges that an area is affected by extreme weather conditions or the weather conditions justify the suspension or variation of the requirement taking into consideration the economic impact of the weather conditions and the environmental effects of any variation or suspension of the requirement.

3.4 Where the Department judges that such a suspension or variation is necessary it must publish directions to the farmers in the area concerned stating, with reasons, the details and duration of the suspension or variation, and the farmers must comply with the requirement as varied in the directions, or in the case of suspension of the requirement, need not comply with the requirement.

4. Legislative Background

4.1 The regulations provide for the implementation of Article 6 of Council Regulation (EC) No. 73/2009 (O.J. No. L30, 31.1.2009, p.16).

5. Consultation

5.1 The Northern Ireland Cross-Compliance requirements have been subject to three consultation exercises. The consultation exercise that included details of the Northern Ireland Good Agricultural and Environmental Condition (GAEC) requirements took place in April 2004.

6. Position in GB

6.1 Both England and Wales have a similar clause in their Cross-Compliance Regulations to allow the Secretary of State in England or the National Assembly in Wales to suspend or vary their Waterlogged Soil GAEC standard. The Scottish Regulations do not prohibit harvesting on waterlogged soil so therefore an option to suspend or vary is not required.

7. Equality impact

7.1 An Equality Impact Assessment [EQIA] screening exercise has been carried out on the regulations. The exercise concluded that the regulations should be screened out from requiring a full EQIA. This is because the exemption

if introduced will apply to all areas of Northern Ireland and will enable all farmers affected by the extreme weather conditions to continue to carry out farming activities on water logged soil. This will enable farmers to harvest arable crops and grass and deal with animal welfare issues.

8. Regulatory impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Financial implications

9.1 There are no financial issues in respect of these Regulations.

10. Section 24 Northern Ireland Act

10.1 The Regulations are deemed to be compatible with section 24 of the Northern Ireland Act 1998.

11. EU implications

11.1 The Northern Ireland GAEC requirements were developed from a framework laid down by the European Commission. As long as all the mandatory elements of the Commission framework are implemented Northern Ireland has regional discretion about how these elements are enforced.

12. Contact

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