

**EXPLANATORY MEMORANDUM
TO
THE COMMON AGRICULTURAL POLICY SINGLE PAYMENT AND SUPPORT
SCHEMES (CROSS COMPLIANCE) (AMENDMENT) REGULATIONS (NORTHERN
IRELAND) 2012**

2012 No. 452

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 7 January 2013.

2. Purpose

2.1 These Regulations amend the existing Northern Ireland Cross-Compliance Regulations to ensure the Department of Agriculture and Rural Development can inspect all appropriate lands, buildings, machinery and livestock to verify that Cross-Compliance requirements are met and can remove evidence of non compliance when appropriate.

2.2 In updating the domestic Cross-Compliance Regulations, the Department has taken the opportunity to make minor changes to the existing Regulations and in particular, the 'Powers of the authorised person' section of the Regulations. These changes are technical in nature and do not increase the burden of the requirements.

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 Earlier this year, a doubt arose as to whether the Department had the power to enter conacre land (as declared on the Single Application Form) for the purpose of checking Good Agricultural and Environmental Condition (GAEC) requirements. The view was that this power could only be exercised where the holding was either occupied by or in the possession of a farmer or someone under the farmer's control and, therefore, it could be argued that this could exclude conacre land if the farmer has no control over this type of letting.

3.3 This anomaly means that, if challenged successfully, DARD would not be able to enforce the Northern Ireland GAEC requirements in respect of claims submitted by conacre tenants. As around 30% of land here is held in conacre, this would clearly frustrate European Commission requirements and could be seen as a weakness in our SFP and LFACA control processes that could potentially lead to the application of financial correction. DARD therefore wishes to amend its legislation to ensure it can inspect land let in conacre to verify compliance with the Cross-Compliance requirements.

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 There has been no consultation specific to these amended Regulations. As stated in section 3 the Department needs to correct the anomaly and bring the SR into line with the Commission requirements. This will not affect any change in the inspection regime as, in fact, the Department has been inspecting to this standard since the introduction of Cross-Compliance. The Northern Ireland Cross-Compliance requirements which came into effect in three tranches from 2005 to 2007 were the subject of three separate consultation exercises. No issues relevant to these amendment Regulations were raised during the consultation exercise.

6. Position in GB/ROI

6.1 While conacre is not an issue in England, Scotland or Wales, all 3 devolved administrations have similar powers of entry to those now being proposed in Northern Ireland. The ROI inspects on conacre land and draws its Cross-Compliance powers from the European Council and Commission Regulations.

7. Equality impact

7.1 In accordance with DARD's obligations under Section 75 of the Northern Ireland Act 1998, the equality implications of the proposed Regulations have been assessed.

7.2 The Regulations have been screened using DARD's Equality and Human Rights procedure. This screening shows that these amendments have no impact on equality or human rights and, therefore, an EIA is not required.

8. Regulatory impact

8.1 The Regulations will not impact on business, charities, social enterprise or voluntary bodies. Nor will they impose any cost or administrative burden on the NI Industry. A Regulatory Impact Assessment is not required.

9. Financial implications

9.1 There are no financial or resource implications involved in the making of this SR.

10. Section 24 Northern Ireland Act

10.1 The Regulations ensure that the Department can fully enforce the Northern Ireland Cross-Compliance requirements. There are no human rights implications, nor are they incompatible with EU law. The Regulations are, therefore, deemed to comply with the requirements of Section 24 of the Northern Ireland Act 1998.

11. EU implications

11.1 The anomaly highlighted in section 3 could be seen by the Commission as a gap in the Single Farm Payment control process and could potentially lead to the application of financial correction.

12. Contact

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