

EXECUTIVE NOTE

THE COMMON AGRICULTURAL POLICY SCHEMES (CROSS-COMPLIANCE) (SCOTLAND) AMENDMENT REGULATIONS 2007 SSI 2007/ 99

1. The above instrument was made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to negative resolution procedure.

Policy objectives

2. The main purpose of the instrument is to designate the Secretary of State for Environment, Food and Rural Affairs, with the Veterinary Medicines Directorate and the State Veterinary Service acting on his behalf, as Competent Control Authority for certain Statutory Management Requirements that apply to farmers in receipt of Single Farm Payments and other grant payments made under the Rural Development Regulation.

3. Under the reformed Common Agricultural Policy, farmers have to observe certain conditions relating to the protection of the environment, animal health and welfare and public health in return for their Single Farm Payments (and in return for other grant payments made under the Rural Development Regulation from 1 January 2007). These conditions are set out in the Common Agricultural Policy Schemes (Cross-Compliance) (Scotland) Regulations 2004 (SSI 2004/518) (“the principal Regulations”) and are in two parts:

- Good Agricultural and Environmental Condition, which sets minimum standards of soil protection and maintenance of landscape features; and
- Statutory Management Requirements (SMRs), which require farmers to comply with a range of existing legislation relating to public, animal and plant health, the environment and animal welfare. These have been introduced in 3 stages: 1 January 2005; 1 January 2006; and 1 January 2007.

4. For each standard or requirement, Member States are required to designate a Competent Control Authority (CCA) to be responsible for undertaking cross-compliance inspections and be accountable to EU auditors for this purpose. EC Regulation No. 796/2004 (O.J, No. L 141, 30.4.2004, p.18) (“the EC Regulation”) envisages that the CCA will normally be the relevant specialised control body for specific Statutory Management Requirements, but includes a derogation that allows Member States to designate the Paying Agency to be the CCA, provided that the Member State guarantees that the effectiveness of the controls is at least equal to that achieved where the controls are carried out by a specialist control body. This derogation was used in the principal Regulations to enable the Scottish Ministers to be designated as the CCA for all cross-compliance requirements.

5. For most measures the Scottish Ministers are, in practice, the specialised control body, so would in any event be the CCA. For some measures, the principal Regulations designate Scottish Natural Heritage and the Scottish Environmental Protection Agency, which are executive agencies of the Executive, as relevant authorities, placing a statutory duty on them to report on certain measures (although the Scottish Ministers remain the CCA).

State Veterinary Service and Veterinary Medicines Directorate

6. The State Veterinary Service (SVS) and Veterinary Medicines Directorate (VMD) are the relevant specialised control bodies for certain SMRs in the UK. They are not legal entities in their own right but are executive agencies of the Department for Environment, Food and Rural Affairs. The Scottish Ministers cannot therefore impose statutory duties on SVS and VMD directly to carry out and report on cross-compliance inspections. Management Agreements have been negotiated with SVS and VMD to cover certain SMRs, under which they carry out the necessary inspections on behalf of the Scottish Ministers. However, it is considered appropriate to have a statutory basis for these controls, which would arguably accord more closely with what is envisaged in the EC Regulation. As SVS and VMD cannot be designated as CCAs in their own right, the mechanism for achieving this is to designate the Secretary of State as CCA who will (through the SVS and VMD) carry out inspections as required by the EC Regulation. The Secretary of State will report the findings from inspections to the Scottish Ministers as Paying Agency. It will remain for the Scottish Ministers, as Paying Agency, to decide whether a payment reduction should be applied in any given case.

7. The Secretary of State has agreed to being so designated, and SVS and VMD would carry out this role across Scotland, England and Wales.

Statutory Management Requirements

8. The SMRs for which this designation applies are as follows:

Veterinary Medicines Directorate:

- **SMR 10**, which came into force on 1 January 2006, places restrictions on the use of substances having hormonal or thyrostatic action, and beta-agonists, in farm animals. VMD operates the National Surveillance Scheme in the UK, which covers the checks required under this SMR.

State Veterinary Service:

- **SMRs 13 – 15**, which came into force on 1 January 2006, require that farmers notify the Divisional Veterinary Manager of the SVS if they know or suspect that an animal or carcass is infected with one of the listed notifiable diseases (eg Foot and Mouth, Swine Fever, Bluetongue). SMRs 13 – 15 apply only following a disease outbreak.
- **SMRs 16 – 18**, which came into force on 1 January 2007, lay down minimum standards for the protection of calves, pigs and other animals kept for farming purposes and SVS check these.

Other amendments

9. The Regulations make a number of other amendments as follows-

- adding to the powers of authorised persons, principally in respect of inspections related to animal welfare under statutory management requirements 16 to 18; these

additional powers will be consistent with the powers of animal welfare inspectors undertaking cross-compliance functions in England and is therefore consistent with the principal purpose of the Regulations;

- amending paragraph 17 of the Schedule to the principal Regulations in respect of the protected historic environment to ensure that all monuments are protected by the good agricultural and environmental condition. The drafting of paragraph 17 as originally enacted was identified as potentially restricting this protection to buildings, which was not intended;
- substituting references to the Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006 for references to the Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (Scotland) Regulations 2002 (S.S.I. 2002/6), the former having revoked and replaced the latter.

Regulatory Impact Assessment

10. This amendment has no impact on or cost implications for individual farmers or the farming industry. It represents a formalisation, within the legal framework envisaged by the EC Regulation, of the position in practice and as set out in the principal Regulations. Nor does it have any financial implications for the Scottish Executive since it simply makes the Secretary of State, rather than Scottish Ministers, directly accountable to EU auditors for undertaking the relevant cross-compliance inspections.

Scottish Executive Environment and Rural Affairs Department
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