

## SCHEDULE

Regulation 3(2)

### STANDARDS FOR GOOD AGRICULTURAL AND ENVIRONMENTAL CONDITION

## PART 1

### General Interpretation

In this Schedule—

“the 2003 Act” means the Water Environment and Water Services (Scotland) Act 2003 <sup>M1</sup>;

“the 2011 Regulations” means the Water Environment (Controlled Activities) (Scotland) Regulations 2011 <sup>M2</sup>;

“chemical fertiliser” means fertiliser which is manufactured by an industrial process;

[<sup>F1</sup>“invasive species” means giant hogweed (*heracleum mantegazzianum*), Japanese knotweed (*fallopia japonica*), Himalayan balsam (*impatiens glandulifera*) and rhododendron (*rhododendron ponticum*);]

“nitrogen fertiliser” means any substance containing a nitrogen compound utilised on land to enhance growth or vegetation;

“organic manure” means—

- (a) livestock manure; and
- (b) nitrogen fertiliser, not being livestock manure or chemical fertiliser, derived from organic matter, and includes sewage sludge and other organic wastes;

“pesticides” means anything used for destroying pests and includes herbicides, fungicides, insecticides and other biocides;

[<sup>F2</sup>“relevant period” means the period beginning on the day the land is prepared for planting a hedge and terminating at the end of the third growing season following the planting of that hedge;]

“rough grazings and other semi-natural areas” means land containing semi-natural vegetation including heathland, heather moorland, bog, unimproved grassland and rough grassland which is used or suitable for grazing; and

“surface water” has the same meaning as in section 3(3) of the 2003 Act.

#### Textual Amendments

**F1** Words in sch. Pt. 1 inserted (16.3.2015) by [The Common Agricultural Policy \(Direct Payments etc.\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/58\)](#), regs. 1(1), **27(2)**.

**F2** Words in sch. Pt. 1 inserted (27.6.2015) by [The Common Agricultural Policy \(Direct Payments etc.\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/215\)](#), regs. 1(3), **11**.

#### Marginal Citations

**M1** [2003 asp 3](#), to which there are amendments not relevant to these Regulations.

**M2** [S.S.I. 2011/209](#), as amended by [S.S.I. 2012/360](#), [S.S.I. 2013/176](#), [S.S.I. 2013/323](#) and [S.S.I. 2013/325](#).

### Textual Amendments

- F1** Words in sch. Pt. 1 inserted (16.3.2015) by [The Common Agricultural Policy \(Direct Payments etc.\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/58\)](#), regs. 1(1), **27(2)**.
- F2** Words in sch. Pt. 1 inserted (27.6.2015) by [The Common Agricultural Policy \(Direct Payments etc.\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/215\)](#), regs. 1(3), **11**.

### Marginal Citations

- M1** [2003 asp 3](#), to which there are amendments not relevant to these Regulations.
- M2** [S.S.I. 2011/209](#), as amended by [S.S.I. 2012/360](#), [S.S.I. 2013/176](#), [S.S.I. 2013/323](#) and [S.S.I. 2013/325](#).

## PART 2

### Standards for Good Agricultural and Environmental Condition

#### Establishment of buffer strips along water courses

- 1.—(1) Organic manure must not be applied to any land which is situated within—
- (a) 10 metres of any surface water; or
  - (b) 50 metres of any well, borehole or similar work sunk into underground strata for the purposes of any water supply.
- (2) No field heap is to be located within [<sup>F3</sup>, or on any land in a manner which will likely result in organic manure being located within,] —
- (a) 10 metres of any surface water; or
  - (b) 50 metres of any well, borehole or similar work sunk into underground strata for the purposes of any water supply.
- (3) Nitrogen fertiliser must not be applied to any land if there is a significant risk of nitrogen entering surface water, taking into account—
- (a) the slope of the land, particularly if greater than 12 degrees;
  - (b) any ground cover;
  - (c) the proximity of the land to any surface water;
  - (d) weather conditions; and
  - (e) the type of fertiliser being applied.
- (4) Chemical fertiliser must not be applied to any land in any case, location or manner that makes it likely that the fertiliser will directly enter any surface water.
- (5) Except where sub-paragraph (6) [<sup>F4</sup> or (7)] applies, the cultivation of land or the direct application of pesticides must not take place within 2 metres of the top of the bank of any surface water.
- [<sup>F5</sup>(6) This sub-paragraph applies where pesticides are applied to land to control—
- (a) injurious weeds to which the Weeds Act 1959 applies;
  - (b) invasive species; or
  - (c) if the prior written consent of the Scottish Ministers has been given, other plant species.]

[<sup>F6</sup>(7) This sub-paragraph applies where the cultivation of land takes place for the purpose of establishing—

- (a) a green cover on that land, where it does not already have a green cover; or
- (b) a hedge (as defined in paragraph 7(7)(a)) during the relevant period.]

[<sup>F7</sup>(8) In this paragraph, “field heap” means a store or stack of organic manure which is a freestanding heap which does not slump or produce free draining liquid from within the stacked material.]

#### Textual Amendments

- F3** Words in sch. Pt. 2 para 1(2) inserted (15.5.2018) by [The Common Agricultural Policy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/122\)](#), **regs. 1**, 14(a)(i).
- F4** Words in sch. Pt. 2 para 1(5) inserted (27.6.2015) by [The Common Agricultural Policy \(Direct Payments etc.\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/215\)](#), **regs. 1(3)**, 12(a)(i).
- F5** sch. Pt. 2 para 1(6) substituted (27.6.2015) by [The Common Agricultural Policy \(Direct Payments etc.\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/215\)](#), **regs. 1(3)**, 12(a)(ii).
- F6** sch. Pt. 2 para 1(7) inserted (27.6.2015) by [The Common Agricultural Policy \(Direct Payments etc.\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/215\)](#), **regs. 1(3)**, 12(a)(iii).
- F7** sch. Pt. 2 para 1(8) inserted (15.5.2018) by [The Common Agricultural Policy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/122\)](#), **regs. 1**, 14(a)(ii).

#### Use of water for irrigation

2.—(1) The abstraction of water for irrigation must be carried out in compliance with the authorisation procedures set out in Part 2 of the 2011 Regulations.

(2) In this paragraph, “abstraction” has the same meaning as in section 20(6) of the 2003 Act.

#### Protection of groundwater against pollution

3.—(1) A beneficiary must not, when carrying on any agricultural activity—

- (a) cause or permit the direct or indirect discharge into groundwater; or
- (b) do anything likely to cause a direct or indirect discharge into groundwater,

of any substances or families or groups of substances specified in the lists in the Table in Part 3 of this Schedule, unless it is authorised under the 2011 Regulations and carried out in accordance with that authorisation.

(2) A beneficiary must, when carrying on any agricultural activity, comply with the requirements of a notice issued under regulation 32(2) of the 2011 Regulations (enforcement notices) in relation to the direct or indirect discharge into groundwater of any substances or families or groups of substances specified in the lists in the Table in Part 3 of this Schedule.

#### Minimum soil cover

4.—(1) Subject to sub-paragraph (2), where land has been cropped with any crop which has been harvested, a beneficiary must ensure that throughout the winter following that harvest such land is covered by the stubble of the harvested crop, by another crop or by grass.

(2) Sub-paragraph (1) does not apply to the extent that the prevailing agronomic or weather conditions and the condition of the composition of the soil of that land—

- (a) after harvest are such that compliance with that sub-paragraph would be detrimental to the use of the land for agricultural production; or
- (b) are such that they would allow cultivation to be carried out on the land in preparation for the following year's crop rotation before the end of winter.

**Changes to legislation:** There are currently no known outstanding effects for the The Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014. (See end of Document for details)

(3) Final seedbeds must only be created for as short a period as possible before the next crop is planted, to avoid significant erosion of the soil, taking account of prevailing agronomic or weather conditions.

(4) In this paragraph, “winter” means the period beginning on the day after the crop has been harvested and ending on the last day of February in the calendar year following that harvest.

#### **Minimum land management reflecting site specific conditions to limit erosion**

5.—(1) A beneficiary must [<sup>F8</sup>limit] the erosion of the banks of watercourses, at watering points or feeding areas, from overgrazing or heavy poaching by livestock.

(2) In the case of late harvested crops where agronomic or weather conditions prevent the subsequent crop or cover from being sown, a beneficiary must put in place measures to limit soil erosion.

(3) In this paragraph, “heavy poaching” means the cutting up of turf to a significant degree as a result of trampling by livestock.

#### **Textual Amendments**

**F8** Word in sch. Pt. 2 para 5(1) substituted (15.5.2018) by [The Common Agricultural Policy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/122\)](#), **regs. 1, 14(b)**.

#### **Maintenance of soil organic matter**

6.—(1) A beneficiary must not burn stubble except for the purposes of disease control or elimination of plant pests.

(2) A beneficiary who makes muirburn must—

- (a) provide at the place where the muirburn is about to take place, and maintain there whilst the muirburn is undertaken, sufficient staff and equipment to control and regulate burning operations so as to prevent damage to any woodlands on or adjoining the land where the operations are taking place or to any adjoining lands, march fences or other things; and
- (b) do so with due care so as not to cause damage to any woodlands on or adjoining the land where the operations are taking place, or to any adjoining lands, woodlands, march fences or other things.

(3) A beneficiary must not plough up rough grazings and other semi-natural areas without approval under [<sup>F9</sup>the Agriculture, Land Drainage and Irrigation Projects (Environmental Impact Assessment) (Scotland) Regulations 2017].

#### **Textual Amendments**

**F9** Words in sch. Pt. 2 para. 6(3) substituted (28.3.2019) by [The Common Agricultural Policy \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/60\)](#), **regs. 1(1)(a), 2**

#### **Retention of landscape features**

7.—(1) Subject to sub-paragraph (3), a beneficiary must not remove or destroy drystone or flagstone dykes, turf and stone-faced banks, walls, hedges (or part of a hedge) and trees (whether in line, in a group or isolated), ponds or watercourses without the prior written consent of—

- (a) the Scottish Ministers; or

- (b) such other authority, by or under any enactment, as may be notified to the beneficiary by the Scottish Ministers when the beneficiary applies to the Scottish Ministers for consent.

[<sup>F10</sup>(2) A beneficiary must not trim a hedge or cut a tree during the period beginning on 1st March and ending on 31st August in any calendar year (“the prohibited period”), except in accordance with sub-paragraph (3A) or (3B).]

[<sup>F11</sup>(3) Written consent under sub-paragraph (1) is not required—

- (a) to widen field entrances to enable access for livestock or farm machinery; or
- (b) where the hedge (or part of a hedge) or tree is—
  - (i) dead;
  - (ii) damaged; or
  - (iii) insecurely rooted,and because of its condition it poses a risk to human safety.]

[<sup>F12</sup>(3A) Trimming a hedge or cutting a tree is permitted during the prohibited period—

- (a) for the purposes of hedgelaying up to and including 31st March; or
- (b) to the extent necessary for the purposes of road safety.

(3B) Trimming a hedge or cutting a tree during the month of August in any calendar year is permitted if—

- (a) the hedge or tree is in a field which during that month has been sown with—
  - (i) a crop of oilseed rape; or
  - (ii) temporary grass; or
- (b) the hedge or tree is in a field which during that month has been sown with any other crop and the Scottish Ministers have given the beneficiary written permission to trim the hedge or cut the tree.]

(4) A beneficiary must not alter, or cause (whether directly or indirectly) the damage or destruction of a monument for the time being included in the Schedule of monuments compiled and maintained under section 1 of the Ancient Monuments and Archaeological Areas Act 1979 <sup>M3</sup> without prior scheduled monument consent within the meaning of that Act.

(5) Except where sub-paragraph (6) applies, the cultivation of land or the direct application of organic manure, chemical or nitrogen fertilisers or pesticides must not take place within 2 metres of the centre line of a hedge.

[<sup>F13</sup>(6) This sub-paragraph applies where—

- (a) the cultivation of land takes place for the purpose of—
  - (i) establishing a green cover on that land, where it does not already have a green cover;
  - (ii) establishing a hedge during the relevant period and, for that purpose, organic manure, chemical or nitrogen fertilisers or pesticides may be applied to the land; or
  - (iii) in calendar year 2015, harvesting any crop that has been established before 1st January 2015;
- (b) organic manure, chemical or nitrogen fertilisers or pesticides are applied to land prior to the harvesting of a crop as mentioned in head (a)(iii); or
- (c) pesticides are applied to land to control—
  - (i) injurious weeds to which the Weeds Act 1959 applies;
  - (ii) invasive species; or

- (iii) if the prior written consent of the Scottish Ministers has been given, other plant species.]
- (7) In this paragraph—
- (a) “hedge” means any hedge growing in, or adjacent to, any land which forms part of a holding, which has—
- (i) a length of at least 20 metres; or
  - (ii) a length of less than 20 metres where it meets (at an intersection or junction) another hedge at each end,
- and any gap of less than 20 metres is to be treated as part of the hedge; and
- (b) “remove or destroy” does not include—
- (i) trimming a hedge; or
  - (ii) lopping branches from trees; <sup>F14</sup> ...
- [<sup>F15</sup>(c) “hedgelaying” means a traditional method of cultivating hedges where tall saplings are partly cut through near the base and then bent over so that they lie horizontally and make a thick barrier; and
- (d) “necessary for the purposes of road safety” includes where a tree or hedge—
- (i) overhangs a road, surfaced track or footpath to which the public have access so as to endanger or obstruct the passage of vehicles, pedestrians or horse-riders; or
  - (ii) obstructs or interferes with the view of drivers of vehicles or the light from a public lamp.]

#### Textual Amendments

- F10** sch. Pt. 2 para 7(2) substituted (15.5.2018) by [The Common Agricultural Policy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/122\)](#), **regs. 1**, 14(c)(i).
- F11** sch. Pt. 2 para 7(3) substituted (15.5.2018) by [The Common Agricultural Policy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/122\)](#), **regs. 1**, 14(c)(ii).
- F12** sch. Pt. 2 para 7(3A)(3B) inserted (15.5.2018) by [The Common Agricultural Policy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/122\)](#), **regs. 1**, 14(c)(iii).
- F13** sch. Pt. 2 para 7(6) substituted (27.6.2015) by [The Common Agricultural Policy \(Direct Payments etc.\) \(Scotland\) Amendment Regulations 2015 \(S.S.I. 2015/215\)](#), **regs. 1(3)**, 12(a)(iii).
- F14** Word in sch. Pt. 2 para 7(7)(b)(ii) repealed (15.5.2018) by [The Common Agricultural Policy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/122\)](#), **regs. 1**, 14(c)(iv)(aa).
- F15** sch. Pt. 2 para 7(7)(c)(d) substituted for sch. Pt. 2 para 7(7)(c) (15.5.2018) by [The Common Agricultural Policy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/122\)](#), **regs. 1**, 14(c)(iv)(bb).

#### Marginal Citations

- M3** 1979 c.46, as amended by Schedule 4 to the [National Heritage Act 1983 \(c.47\)](#).

## PART 3

### Protection of Groundwater against Pollution

#### TABLE

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##### LIST I

1. Organohalogen compounds and substances which may form such compounds in the aquatic environment.
2. Organophosphorus compounds.
3. Organotin compounds.
4. Substances which possess carcinogenic mutagenic or teratogenic properties in or via the aquatic environment.
5. Mercury and its compounds.
6. Cadmium and its compounds.
7. Mineral oils and hydrocarbons.
8. Cyanides.

##### LIST II

1. The following metalloids and metals and their compounds:

Zinc

Copper

Nickel

Chrome

Lead

Selenium

Arsenic

Antimony

Molybdenum

Titanium

Tin

Barium

Beryllium

Boron

Uranium

Vanadium

Cobalt

Thallium

Tellurium

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Silver.

2. Biocides and their derivatives not appearing in List I.
  3. Substances which have a deleterious effect on the taste or odour of groundwater, and compounds liable to cause the formation of such substances in groundwater and to render it unfit for human consumption.
  4. Toxic or persistent organic compounds of silicon, and substances which may cause the formation of such compounds in water, excluding those which are biologically harmless or are rapidly converted in water into harmless substances.
  5. Inorganic compounds of phosphorous and elemental phosphorous.
  6. Fluorides.
  7. Ammonia and nitrites.
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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.