STATUTORY RULES OF NORTHERN IRELAND

# 2014 No. 291

# AGRICULTURE

# The Common Agricultural Policy Direct Payments and Support Schemes (Cross Compliance) Regulations (Northern Ireland) 2014

*Made - - - - 25th November 2014*

*Coming into operation 1st January 2015*

The Department of Agriculture and Rural Development is a Department designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to the common agricultural policy of the European Union and in relation to matters relating to the promotion of rural development.

The Department of Agriculture and Rural Development makes the following Regulations in exercise of the powers conferred on it by section 2(2) of that Act.

**F1** S.I.2000/2812 to which there are amendments not relevant to the subject matter of these Regulations and S.I.2000/3238

**F2** 1972 c.68

**Title, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Common Agricultural Policy Direct Payments and Support Schemes (Cross Compliance) Regulations (Northern Ireland) 2014 and shall come into operation on 1st January 2015.

(2) The Interpretation Act (Northern Ireland) 1954 [F3] shall apply to these Regulations as it applies to an Act of the Assembly.

(3) In these Regulations—

"agri-environment agreement" means an agreement entered into under a measure supported by the European Fund for Rural Development and forming part of the Northern Ireland Rural Development Programme approved by the European Commission under Article 10 of Council Regulation (EU) No. 1305/2013 or under a measure listed in Article 36 of Council Regulation 1698/2005;

"authorised person" means any person authorised by the Department to act in matters relating to these Regulations, the Horizontal Regulation, the Commission Implementing Regulation or the Commission Delegated Regulation;

"the Commission Delegated Regulation" means Commission Delegated Regulation 640/2014 of the European Parliament and of the Council with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance;

"the Commission Implementing Regulation" means Commission Implementing Regulation No 809/2014 laying down rules for the application of Regulation (EU) 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance;

"Commission Regulation (EU) 1120/2009" means Commission Regulation (EC) No 1120/2009 laying down detailed rules for the implementation of the single payment scheme provided for in Title III of Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers [F4];

"Council Regulation 1698/2005" means Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)

"the Department" means the Department of Agriculture and Rural Development;

"the Direct Payment Regulation" means Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation No 637/2008 and Council Regulation (EC) No 73/2009[F5];

"the Horizontal Regulation" means Regulation (EU) No 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008[F6];

"non compliance" means contravention of any rule on cross compliance for the purposes of Article 93 of the Horizontal Regulation;

"permanent pasture" has the meaning given to it in Article 2 of Commission Regulation 1120/2009 [F7].

(4) Any reference in these Regulations to Community instrument is a reference to that instrument **[**[F8]as amended from time to time**]** .

(5) Other expressions used in these Regulations shall be construed in accordance with the Direct Payment Regulation.

**F3** 1954 c.33 (N.I)
**F4** O.J. No. L316 2.2.2009 p1
**F5** O.J. No. L347, 20.12.13, p608
**F6** O.J. No. L347, 20.12.13, p549
**F7** O.J. No. L316, 2.12.2009, p1
**F8** Words in reg. 1(4) substituted (6.3.2019) by The Agriculture (Miscellaneous Amendments) Regulations (Northern Ireland) 2019 (S.R. 2019/11), regs. 1(1), **5(2)**

### Standards of good agricultural and environmental condition

**2.**—(1) The standards of good agricultural and environmental condition set out in Schedule 1 apply as minimum requirements for the purposes of Article 94(1) of, and Annex II to the Horizontal Regulation.

(2) Any action required to comply with an agri-environment agreement shall not constitute non compliance.

**Permanent Pasture**

**3.**—(1) If it is established that the ratio in Article 37(1) of the Commission Delegated Regulation has decreased in 2014 at national or regional level, the Department may prohibit a farmer from converting land under permanent pasture, except in the circumstances mentioned in Article 37(2) of that Regulation or with prior authorisation from the Department.

(2) If it is established that the ratio in Article 37(1) of the Commission Delegated Regulation has decreased in 2014 at national or regional level by more than 5% the Department shall prohibit a farmer from converting land under permanent pasture except in the circumstances mentioned in Article 37(2) of the Regulation or with prior authorisation from the Department.

(3) Any authorisation given by the Department under paragraph (1) or (2) may be subject to the conditions referred to in the third sub-paragraph of Article 37(1) of the Commission Delegated Regulation.

(4) Where it is established that the obligation referred to in Article 3(2) of Regulation 1122/2009 cannot be ensured in 2014 the Department shall oblige a farmer to reconvert land into land under permanent pasture in accordance with Article 37(3) of the Commission Delegated Regulation.

(5) This Regulation shall apply only to the year 2015.

**Competent Control Authority**

**4.**—(1) For the purposes of Article 67 of the Commission Implementing Regulation—

**[**[F9](a) the Department of the Environment is the specialist control body who shall bear the responsibility of carrying out the controls in respect of SMR 1 to 3 and paragraphs 1 to 3 of Schedule 1;

(b) the Health and Safety Executive for Northern Ireland is the specialist control body who shall bear the responsibility for carrying out the controls in respect of SMR 10; and**]**

(c) the Department is the specialist control body who shall bear the responsibility of carrying out controls in respect of SMR 4 to13 and all other paragraphs in Schedule 1.

(2) In this regulation, any reference to a numbered SMR is a reference to the Statutory Management Requirement bearing that number in Annex II to the Horizontal Regulation.

**F9** Reg. 4(1)(a)(b) substituted (1.8.2015) by The Common Agricultural Policy Direct Payments and Support Schemes (Cross Compliance) (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/286), regs. 1(1), **3**

**Powers of authorised persons**

**5.**—(1) An authorised person may exercise any of the powers specified in this regulation for the purposes of —

(a) providing the control report pursuant to Article 72 of the Commission Implementing Regulation;

(b) establishing whether there has been non-compliance in any case; or

(c) ascertaining whether an offence under these Regulations has been or is being committed.

**[**F10(2) An authorised person, on producing, if so required, some duly authenticated document showing the person's authority to do so, may at all reasonable hours enter any land, other than a building used only as a dwelling.**]**

(3) An authorised person may—

(a) carry out any inquiries, checks, examinations, measurements and tests;

(b) take samples;

(c) inspect all of any part of the land, (whether it is farmed or is withdrawn from agricultural production) and any livestock, crops, machinery or equipment;

(d) mark any animal or other thing for identification purposes;

(e) have access to, inspect and copy any documents or records (in whatever form they are held) or remove such records to enable them to be copied;

(f) have access to, inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the documents or records; and for this purpose require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford such assistance as is reasonably required and, where a document or record is kept by means of a computer, require the document or record to be produced in a form in which it can be taken away;

(g) remove a carcase found on the land for the purpose of carrying out a post-mortem examination on it;

(h) take a photograph of anything on the land; and

(i) remove anything reasonably believed to be evidence of any non-compliance.

(4) An authorised person entering any premises by virtue of this regulation may take with him—

(a) such other persons as he considers necessary; and

(b) any representative of the European Commission acting for the purposes of the Horizontal Regulation, the Commission Implementing Regulation and the Commission Delegated Regulation.

**[**F11(4A) Paragraph (4)(b) applies only for matters relating to direct payments in a claim year prior to 2020.**]**

(5) If an authorised person enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.

(6) An authorised person who enters any land under a power under other legislation may exercise any of the powers specified in this regulation for the purposes of enforcing these Regulations.

**F10** Reg. 5(2) substituted (1.8.2015) by The Common Agricultural Policy Direct Payments and Support Schemes (Cross Compliance) (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/286), regs. 1(1), 4

**F11** Reg. 5(4A) inserted (31.12.2020) by The Agriculture, Animals and Aquaculture (Health, Identification, Welfare, Trade etc.) (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/324), regs. 1(3), **4**

### Assistance to authorised persons

**6.** A farmer or any employee, agent, contractor or tenant of a farmer shall give an authorised person such assistance as may be reasonably requested so as to enable the authorised person to exercise any power conferred on the authorised person by regulation 5.

**Offences and penalties**

**7.**—(1) Any person who—

(a) intentionally obstructs an authorised person (or accompanying person acting under the authorised person's instructions) in the exercise of a power conferred on the authorised person by regulation 5; or

(b) without reasonable cause fails to comply with a request made under regulation 6, shall be guilty of an offence.

(2) Nothing in paragraph (1)(b) shall be construed as requiring any person to answer any question if to do so might incriminate him.

(3) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 3 of the standard scale.

**Revocation**

**8.**—(1) The Regulations specified in Schedule 2 are hereby revoked.

(2) The provisions revoked by paragraph (1) shall continue to apply in relation to a single application (within the meaning of the Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control Systems) Regulations 2009) as those provisions had effect before paragraph (1) came into force.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 25th November 2014

L.S.
Department of Agriculture and Rural Development

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