



# Cross Compliance



## Notes for Guidance



# **Cross Compliance Notes for Guidance**

Including:

The 7 new Statutory Management Requirements for 2006

An explanation of the penalty system

Various updates to Cross Compliance

**December 2005**

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# **PART A**

## **CROSS COMPLIANCE GUIDANCE**

### **Introduction**

#### **Purpose**

1. These notes for guidance replace the Single Farm Payment Scheme Information Leaflet 7 (Cross Compliance) which was published in October 2004. Included are details of the Good Agricultural and Environmental Condition standards, the Statutory Management Requirements introduced in 2005 and the additional seven Statutory Management Requirements which will come into force on 1 January 2006.

#### **Background**

2. To receive payment for claims under the

- Single Farm Payment Scheme
- Protein Crop Premium
- Energy Crop Scheme
- Scottish Beef Calf Scheme; and
- Nuts Aid Scheme

you must keep your land in Good Agricultural and Environmental Condition and comply with a number of specified legal requirements, known as Statutory Management Requirements, relating to:

- Environment (SMR's 1 to 5)
- Public, animal and plant health (SMR's 6 to 15)
- Animal welfare (to be introduced in 2007)

3. These requirements and standards are known as Cross Compliance.
4. This guidance focuses on the Scottish Cross Compliance requirements for 2006. The requirements will remain largely the same in future years, although a further three directives and regulations covering animal welfare requirements will be introduced in 2007.
5. The Cross Compliance requirements will be slightly different in England, Wales and Northern Ireland. If you have land in more than one UK country you will need to make sure that you meet the Cross Compliance requirements of the country where your other land is situated. For example, if you have land in both Scotland and England you will have to meet Scottish Cross Compliance requirements on your Scottish land and English Cross Compliance on your English land.

## Legal basis

6. The legal basis for Cross Compliance is Council Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003) and Commission Regulation (EC) No 796/2004 (OJ L 141, 30.4.2004), as well as the domestic legislation which provides for the administration and enforcement of the Regulations. Domestic legislation includes a statutory instrument (SSI 2004/518) which defines Good Agricultural and Environmental Condition in Scotland and provides enforcement and inspection powers for Cross Compliance.
7. If you do not meet the requirements and standards of the Direct Payment Schemes (Single Farm Payment Scheme, Protein Crop Premium, Energy Crop Scheme, Scottish Beef Calf Scheme and Nuts Aid Scheme) your payment may be reduced in part or in full. In certain circumstances you could also be excluded from the direct payment schemes the following year.
8. Most of these requirements and standards are not new. The Statutory Management Requirements relate to existing law which you should already be following. Many of the Good Agricultural and Environmental Condition standards reflect good practice which you may already be following. **What is new, is that your direct payment scheme subsidies may be reduced if you are in breach of Cross Compliance requirements.**
9. Cross Compliance does not replace existing law. Action can be taken against you, and you may face criminal charges in addition to any sanctions imposed for breach of Cross Compliance requirements.

## Overview of requirements

10. There are two parts to Cross Compliance. In order to receive payments under any of the direct payment schemes you must meet these conditions:
  - Statutory Management Requirements (SMRs). These are domestic requirements relating to EC Directives and Regulations which are specified by the European Commission. All of these conditions are legally binding on farmers and crofters in Scotland.
  - Keeping your land in Good Agricultural and Environmental Condition (GAEC). Member States were permitted to define minimum standards for GAEC on the basis of a European framework.
11. Cross Compliance applies to all land within an agricultural business even if it is not used to activate Single Farm Payment entitlements.
  - For permanently held land (either owned or under an agricultural tenancy) Cross Compliance applies for the full 12 months, not just the minimum 10 month period.

- For seasonally let land the person who declares the land on their Single Application Form (SAF) is responsible for Cross Compliance for the duration of the lease.

Landlords, claiming under any of the direct payment schemes, are responsible for Cross Compliance on any land returning to them after the end of seasonal let agreements.

## Permanent Pasture

12. Member States must make sure that there is no significant decrease in the area of permanent pasture declared in 2003.
13. Permanent pasture is land that is used to grow grasses or other herbaceous forage either naturally (self-seeded) or through cultivation (sown) and has not been included in the crop rotation of the holding for 5 years or longer i.e. from 16 May 1998. This includes grassland that has been ploughed and reseeded with grass. It **does not** include land claimed as set-aside whether in grass and/or in long term (e.g. over 5 years set-aside) which will remain classed as arable land.
14. If the area of permanent pasture in Scotland or the UK declines compared with 2003 figures, we may have to take steps to prevent any further loss of permanent pasture, especially when this decline approaches 5%. If the area declines by more than 10%, farmers who converted pasture in the three years prior to the 10% level being exceeded will be required to reconvert an area of land to permanent pasture (other than areas converted to woodland) and retain that land as permanent pasture for five years.
15. We do not expect to have to take any action to prevent the loss of permanent pasture.
16. Please note that while you may plough up permanent pasture for another agricultural purpose, you must be aware that The Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (Scotland) Regulations 2002 apply to uncultivated land and semi-natural areas. If proposed land improvements falls within the EIA Regulations you will require approval before going ahead. Additional requirements may apply if the land is within a Site of Special Scientific Interest (SSSI), Special Protection Area (SPA) or Special Area of Conservation (SAC). For further information and guidance on EIAs contact your local SEERAD Area Office or visit the Scottish Executive website - [www.scotland.gov.uk/about/ERADRA/LURP3/00016808/page835780516.aspx](http://www.scotland.gov.uk/about/ERADRA/LURP3/00016808/page835780516.aspx)

## Statutory Management Requirements

17. The Statutory Management Requirements (SMRs) for 2006 are set out below. For the full legal explanation see the legislation which is detailed in Annex 12.

### SMR 1 Conservation of Wild Birds

18. Wild birds are legally protected and you must follow the requirements set out in relevant nature conservation legislation<sup>1</sup>. You should pay particular attention to potential impacts on protected sites, including Special Protection Areas (SPAs) classified under the EC Birds Directive and to important bird habitats in the wider countryside. In addition to any Cross Compliance penalties, you may face criminal charges if you damage protected sites or harm protected wildlife. Contact Scottish Natural Heritage (SNH) for further advice on nature conservation matters.

19. Some of the most important responsibilities on farmers are mentioned below. Please note that this guidance does not provide a definitive statement of the law surrounding wild birds.

#### 20. You must:

- Meet the terms of any management agreement with SNH relating to the purpose of an SPA.
- Meet the terms of any agri-environment agreement relating to the purpose of an SPA. You must also comply with the terms of any restoration order.
- Get consent from SNH (or another relevant regulator, such as the Forestry Commission) before carrying out certain operations on land within any Site of Special Scientific Interest (SSSI) which is important for wild birds. The particular operations relevant to your holding will have been notified to you by SNH.
- Meet the terms of any relevant Land Management Order made by the Scottish Ministers and with any restoration order made by the courts.
- Take necessary steps to prevent the spread of non-native species in the wild.
- Meet the terms of any licence under which you are permitted to take action against wild birds (e.g. to prevent serious damage to crops).
- Meet other formal nature conservation conditions intended to protect wild birds or an SPA (e.g. conditions imposed in connection with planning consent).

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<sup>1</sup> In particular in the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats, &c.) Regulations 1994, and the Nature Conservation (Scotland) Act 2004.

## 21. You must not:

- Intentionally or recklessly damage a protected site (such as an SPA or an SSSI which is of importance for wild birds).
- Undertake activities which are normally covered by permitted development rights (PDRs) where those rights are suspended (for example, on an SPA).
- Break the terms of any relevant Nature Conservation Order which applies to land for which you are responsible.
- Intentionally or recklessly kill, injure, take, keep or sell any wild bird without authorisation; or intentionally or recklessly disturb specially protected bird species.
- Hunt, take or kill quarry species (e.g. game birds or wildfowl) during the close season.
- Commit other criminal offences involving birds, such as destroying nests, taking eggs or using illegal traps or poisons.
- Cause or permit criminal offences involving birds, even if you do not yourself commit the illegal act.

## SMR 2 Protection of Groundwater Against Pollution

22. Under the Groundwater Regulations 1998 (or as subsequently amended under the Controlled Activities (Scotland) Regulations 2006) land managers require an Authorisation from the Scottish Environment Protection Agency (SEPA) before disposing of List I and List II (as listed in the Directive or as determined by SEPA) substances to land. This means that farmers require an Authorisation from SEPA for disposal of waste sheep dip and pesticide washings to land. Farmers should also ensure that groundwater is not polluted when dipping and spraying operations are being carried out.

23. SEPA can be contacted at:

SEPA Corporate Office  
Erskine Court  
Castle Business Park  
STIRLING  
FK9 4TR  
Tel: 01786 457700  
[www.sepa.org.uk](http://www.sepa.org.uk)

24. Where List I and List II substances are otherwise used, manufactured, stored or handled farmers will be expected to comply with relevant legislation, codes of practice or other relevant good practice.

25. Examples of List I substances are:

- Spent sheep dip and pesticide washings
- Mineral oils and hydrocarbons such as diesel, petrol and heating oil

26. Examples of List II substances are:

- Lead
- Copper

27. The full list of List I and List II substances are detailed at Annex 13.
28. Where it is necessary for the protection of groundwater, SEPA will serve a Notice that requires the activity to comply with certain conditions, or, where the risks cannot be controlled, prohibit the activity altogether. The Sheep Dipping Code of Practice may be cited in a Notice served by SEPA.
29. The Sheep Dipping Code of Practice for Scottish Farmers, Crofters & Contractors is published by the Scottish Executive in agreement with SEPA and the Scottish Agricultural College. You can get this from SEERAD Area Offices or on the Scottish Executive website at:  
[http://www.scotland.gov.uk/library5/agri/sheep\\_final.pdf](http://www.scotland.gov.uk/library5/agri/sheep_final.pdf)

### **SMR 3 The Use of Sewage Sludge in Agriculture**

30. Sewage sludge contains significant levels of nitrogen, phosphorus, trace elements and organic matter. As a fertiliser it has a similar value to that of animal manure and slurries. However, sewage sludge can also contain pathogens and heavy metals that could be harmful to human, animal and plant health.
31. Sludge producers (e.g. Scottish Water, Private Finance Initiatives (PFI's)) and the farmers applying sludge on their land must follow the Sludge (Use in Agriculture) Regulations 1989. This includes the testing of sludge and soil and having withdrawal periods for grazing animals or harvesting of crops. SEPA is the authority that enforces the Regulations.
32. Normally, the treatment of agricultural land with sewage sludge will be supported by professional advice as to the nutrients supplied, timing and method of application etc. Guidance is provided in the Prevention of Environmental Pollution from Agricultural Activity (PEPFAA) code of good practice.
33. Farmers in Nitrate Vulnerable Zones (NVZs) will be expected to record the use of sludge in their Fertiliser and Manure Plan and to observe the relevant closed period.
34. The Code of Practice of Agricultural use of Sewage Sludge is published by the Department for Environment Food and Rural Affairs (Defra). The PEPFAA code and The PEPFAA Dos and Don'ts Guide is published by the Scottish Executive. In March 2005 we sent out the updated version of the PEPFAA code to all farmers. This can also be found on the Scottish Executive website at:  
<http://www.scotland.gov.uk/library5/environment/pepf-00.asp>

## **SMR 4 Protection of Water in Nitrate Vulnerable Zones (NVZ)**

35. Farmers with land in NVZs must follow the rules set out in the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2003 (SSI 2003/51 as amended by SSI 2003/169). The requirements are detailed in the “Guidelines for Farmers in Nitrate Vulnerable Zones” (2003) which was sent to all farmers in NVZs.
36. The PEPFAA code with its Do’s and Don’ts Guide includes advice designed to prevent the run-off or leaching of nitrates and other nutrients to watercourses or ground water. It explains which measures of good practice are mandatory or are required under Cross Compliance.
37. The Guidelines for Farmers in NVZs are published by the Scottish Executive and can be found on the Scottish Executive website at:  
<http://www.scotland.gov.uk/library5/agri/gfnv-00.asp>

## **SMR 5 Conservation of Flora and Fauna**

38. Various wild animals and wild plants are specially protected and you must meet the requirements set out in relevant nature conservation legislation<sup>2</sup>. You should pay particular attention to potential impacts on protected sites, including Special Areas of Conservation (SACs) designated under the EC Habitats Directive. In addition to any Cross Compliance penalties, you may face criminal charges if you damage protected sites or harm protected wild animals and plants. For further advice on nature conservation matters contact Scottish Natural Heritage (SNH).
39. Some of the most important responsibilities for farmers are mentioned below. Please note that this guidance does not provide a definitive statement of the law regarding protected wild animals and plants.
40. **You must:**
  - Meet the terms of any management agreement that you have with SNH that relates to the purpose of an SAC.
  - Meet the terms of any agri-environment agreement that relates to the purpose of an SAC. You must also meet the terms of any restoration order.
  - Get consent from SNH (or another relevant regulator, such as the Forestry Commission) before carrying out certain operations on land within a relevant Site of Special Scientific Interest (SSSI). SNH will have told you which operations are relevant to your holding.
  - Meet the terms of any relevant Land Management Order made by the Scottish Ministers and any restoration order made by the courts.
  - Take necessary steps to prevent the spread of non-native species in the wild.
  - Meet the terms of any licence that gives you permission to take action against protected wild animals or carry out operations which affect certain plants.

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<sup>2</sup> In particular in the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats, &c.) Regulations 1994, and the Nature Conservation (Scotland) Act 2004.

- Meet other formal nature conservation conditions that are in place to protect wild animals and plants, or an SAC (e.g. conditions imposed in connection with planning consent).

**41. You must not:**

- Intentionally or recklessly damage a protected site (such as an SAC or a relevant SSSI).
- Undertake activities which are normally covered by permitted development rights (PDRs) where those rights are suspended (for example, on an SAC).
- Break the terms of any relevant Nature Conservation Order which applies to land for which you are responsible.
- Commit criminal offences involving protected fauna and flora, such as deliberately or recklessly killing, injuring or taking wild animals, cutting, uprooting or destroying wild plants.
- Cause or permit criminal offences involving protected animals or plants, even if you do not yourself commit the illegal act.

- SMR 6 Identification and Registration of Animals - Pigs**  
**SMR 7 Framework for the Identification and Registration of Animals**  
**SMR 8 Identification and Registration of Beef Animals Regarding the Labelling of Beef and Beef Products**  
**SMR 8a Identification and Registration of Animals – Sheep and Goats**

42. SMRs 6, 7, 8 and 8a relate to the identification, registration and traceability of sheep, goats, pigs, cattle and beef products. You must comply with the domestic legislation including where appropriate:

- keeper registration;
- registration of animals;
- ear tag identification;
- record keeping; and
- the recording of animal movements.

43. If you are already following the animal identification, registration and traceability legislation then you are already complying with these SMRs.

**44. For Cattle**

The British Cattle Movement Service (BCMS) operates the Cattle Tracing System (CTS) on behalf of SEERAD. Requirements on the identification and traceability of cattle are set out in the BCMS guidance leaflets issued to all keepers.

You can also find information on the BCMS website

<http://www.rpa.gov.uk/rpa/index.nsf/UIMenu/E50B93E88EAADBAF80256F72003DDB5F?opendocument> or you can call the BCMS helpline on 0845 050 1234

#### 45. For Sheep and Goats

Guidance on the requirements you must meet for sheep and goat identification and traceability are contained in the 'Dear Keeper' letters of 29 July 2004 and 14 July 2003. These letters are available on the SEERAD website at:

[www.scotland.gov.uk/library5/agri/sqtagg-00.asp](http://www.scotland.gov.uk/library5/agri/sqtagg-00.asp)

The domestic legislation is currently being updated and we are sending new information to keepers as part of this process. You will need to follow this information in order to comply with SMR 8a.

Alternatively, information can be obtained by contacting the Scottish Animal Movement Unit (SAMU) 0131 244 4202.

#### 46. For Pigs

Guidance concerning the identification and traceability of pigs can be found in the 1995 pig keeper guidance and subsequent 'Dear Keeper' letters including the letter dated 10 December 2002.

You can also contact the Scottish Animal Movement Unit (SAMU) on 0131 244 4202 for further information.

# Additional Statutory Management Requirements from 1 January 2006

## SMR 9 Restrictions on the use of plant protection products

47. These requirements apply if you use Plant Protection Products on your holding.

48. You **must not** use any plant protection product unless:

- it has been approved under the Plant Protection Products (Scotland) Regulations 2005 (“PPPR”) or the Control of Pesticides Regulations 1986;
- it is used in accordance with any requirement or condition which is:
  - i) specified in the approval or in any extension of use; or
  - ii) required by the approval or extension of use to be on the labelling.
- it is used in accordance with the principles of good plant protection practice; and
- whenever possible, it is used in accordance with the principles of integrated control.

49. **Note: In complying with this SMR you should note the following:**

“**Plant protection product**” means an active substance or a preparation containing one or more active substances, put up in the form in which it is supplied to the user, intended to –

- protect plants or plant products against all harmful organisms or prevent the action of such organisms;
- influence (for example, as a growth regulator) the life processes of plants, other than as a nutrient;
- preserve plant products, in so far as such active substances or preparations are not subject to provisions of Community law on preservatives;
- destroy undesired plants; or
- destroy parts of plants or check or prevent the undesired growth of plants.

“**Active substance**” means any substance or micro-organism, including a virus, having general or specific action against harmful organisms or on plants, parts of plants or plant products.

Details of approved products are all recorded under the pesticide product names at <https://secure.pesticides.gov.uk/pestreg/Prodsearch.asp>.

“**Good plant protection practice**” is the practice whereby the treatments with plant protection products applied to a given crop, in conformity with the conditions of their approved uses, are selected, dosed and timed to ensure optimum efficacy, taking due account of local conditions and of the possibilities for cultural and biological control.

Good plant protection practice is explained in the Code of Practice for the safe use of pesticides on farms and holdings ("**Green Code**") (Statutory Code of Practice made under section 17 of Food and Environment Protection Act 1985 ("FEPA")) a copy of which can be found at [www.pesticides.gov.uk/safe\\_use.asp?id=64](http://www.pesticides.gov.uk/safe_use.asp?id=64). (See sections 1, 2 and 6).

The Green Code is currently being revised. The new code, "**Pesticides code of practice for using plant protection products in Scotland**", is expected to be published around Spring 2006.

"**Integrated Control**" means the rational application of a combination of biological, biotechnological, chemical, cultural or plant-breeding measures whereby the use of chemical plant protection products is limited to the minimum strictly necessary to maintain harmful organisms below levels above which economically unacceptable damage or loss would occur.

50. For further information on integrated control, see the "**Pesticides and Integrated Control**" publication available at [www.pesticides.gov.uk](http://www.pesticides.gov.uk)
51. There are record keeping requirements for pesticides which are included under SMR 11.
52. Further advice on pesticides and their regulation can be obtained from the Pesticides Safety Directorate Information Section -

PSD Mallard House  
Kings Pool  
3 Peaseholme Green  
York, YO1 7PX  
Telephone: 01904 455775  
FAX: 01904 455733  
Website: [www.pesticides.gov.uk](http://www.pesticides.gov.uk)  
Email: [information@psd.defra.gsi.gov.uk](mailto:information@psd.defra.gsi.gov.uk)

## **SMR 10 Restrictions on the use of substances having hormonal or thyrostatic action and beta-agonists in farm animals**

53. Domestic legislation prohibits most uses of such substances in all species of farm animals. However, administration of some of these substances is permitted under veterinary control for a very limited range of uses. SEERAD's evidence is that nearly all farmers in Scotland are already in complying with SMR 10.
54. **You must not:**
- store substances related to oestradiol 17 $\beta$ , beta-agonists that are for induction purposes in the treatment of tocolysis, or products containing these substances on the farm
  - use hormonal substances for growth promotion

- use substances containing or related to oestradiol for oestrus induction in farm animals after October 2006. (You should note that UK law allows the use of oestradiol 17-β or its ester-like derivatives only for oestrus induction in cattle, horses, sheep or goats or for treating cattle for foetus maceration, mummification or pyometra. However, its use for oestrus induction in cattle, horses, sheep or goats is prohibited from 14 October 2006.)

**55. You must:**

- use only UK authorised veterinary medicinal products for their authorised purposes
- obtain 'Prescription Only Medicines – Veterinarian' (POM-V) through a veterinary surgeon or UK registered pharmacy
- follow the instructions for use
- update medicines records whenever these substances are used on the farm
- follow the withdrawal periods as laid out in the product's instructions for use or veterinary prescription

**56. The types of substances whose uses are limited by SMR 10 include:**

- oestrogens, such as oestradiol and zeranol
- androgens, such as testosterone
- gestagens, such as melengestrol acetate
- thyrostats, such as methylthiouracil
- stilbenes, such as diethyl stilboestrol and
- beta-agonists, such as salbutamol and clenbuterol

**57. Examples of products that might contain these substances include – PRID, Planipart and Ventipulmin. Your veterinarian will be able to advise you on where use of these might be allowed.**

**58. Examples of products whose use is illegal are:**

- **Component T-H, 20 Dose Strip**, This product is a slow release anabolic agent containing **trenbolone acetate**, a growth-promoting steroid;
- **Compudose**, an injectable form of **zeranol**, which promotes growth;
- **Finaplix**, an implant for feedlot heifers containing **trenbolone acetate**, a growth-promoting steroid.
- **MGA® 200** or **MGA® 500**, products containing **melengestrol acetate**. It can be used to improve rate of weight gain and feed efficiency in confined feeding heifers or for oestrus suppression in breeding heifers
- **Ralgro**, an implant containing **zeranol** for growth promotion
- **Synovex**, a range of growth promoting products that may contain **testosterone** and **estradiol benzoate**, or **progesterone** and **estradiol**.

**59. You should note the meaning of the following terms:**

**Beta-agonists** - A group of veterinary medicines that, as muscle relaxants, can be used in animals to aid calving and in humans to treat asthma. Some beta-agonists, such as clenbuterol and salbutamol, have been used illegally in animals at much higher concentrations as growth promoters, where they result in a higher

proportion of lean meat. Effects noted in some consumers of meat from such animals are increased pulse rate, palpitations or flu-like symptoms.

**Hormonal substances including thyrostats** - include both naturally occurring and synthetic substances. Natural hormones are produced by endocrine glands such as the ovaries, testes, thyroid, adrenal or pituitary and released into the blood stream to be carried to a particular organ or tissue, where they produce a specific response. Synthetic substances that have hormonal action include, stilbenes gestagens and thyrostats.

Useful Publications: The Compendium of Data Sheets for Animal Medicines 2005, lists nearly all UK authorised veterinary medicinal products. It is published by the National Office of Animal Health, ISBN 0 9548037-0-1. (The 2006 Version is due to be published in October/November 2005).

## SMR 11 Food Law

60. For the purposes of Cross Compliance you must, from 1 January 2006, comply with Articles 14, 15, 17(1), 18, 19 and 20 of Regulation (EC) No 178/2002 (which lays down the requirements of food law) as far as they relate to an agricultural activity which you carry out, or to agricultural land on your holding.

### The main requirements:

61. You should follow the main requirements of the relevant Articles of 178/2002 as summarised in the bullet points below. We will be issuing detailed requirements to supplement these in the early part of 2006.

- You must not place food<sup>3</sup> on the market if it is unsafe<sup>4</sup>.
- You must not place unsafe<sup>5</sup> feed<sup>6</sup> on the market or feed it to food producing animals.
- You must have in place, and maintain, traceability systems and procedures in the form of adequate records and documentation of both inputs *to* and outputs *from* your business. In summary you will need to be able to supply evidence of:

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<sup>3</sup> In general, “food” means any substances which are intended to be consumed by humans. Food does not include feed, live animals and plants prior to harvesting.

<sup>4</sup> Food is considered to be unsafe if it is either injurious to health or unfit for human consumption.

<sup>5</sup> Feed is deemed to be unsafe if it is considered either to have an adverse affect on human health or animal health or if it makes the food derived from food producing animals unsafe for human consumption.

<sup>6</sup> In general, “feed” means any substances which are fed to animals.

- any person or business from whom you have been supplied with a food, a feed, a food-producing animal or any substance that will be incorporated into a food or feed; and
  - any businesses that you have supplied with any of your products.
- If you consider or have reason to believe that a food that you have produced does not satisfy food safety requirements and it has left your control, you shall immediately initiate procedures to withdraw that food from the market and inform the competent authorities of your actions.
  - If you consider or have reason to believe that a feed that you have produced does not satisfy the feed safety requirements you shall immediately initiate procedures to withdraw that feed from the market and inform the competent authorities of your actions. In addition, where any such feed is part of a batch, lot or consignment of feed of the same class or description, you must destroy the batch, lot or consignment unless the competent authority is satisfied otherwise.
  - You must inform the competent authorities immediately if you consider or have reason to believe that a food, which you have placed on the market, may be injurious to human health or if a feed, which you have placed on the market, may not satisfy the feed safety requirements. You must also inform the competent authorities of the action you have taken to prevent risks to the final consumer or risks arising from the use of that feed. You must not prevent or discourage any person from cooperating with the competent authorities where this may prevent, reduce or eliminate a risk arising from a food or feed.
  - As a food or feed business operator you must ensure that you comply with all Food Law<sup>7</sup> as it relates to your agricultural land or agricultural activities.

## **Food law and the Food and Feed Hygiene Regulations:**

### **Food hygiene:**

62. The new Food Hygiene laws apply from 1 January 2006 (EC Regulations 852/2004 and 853/2004). From 1 January 2006, the general principles of food hygiene legislation will extend to **all farms** engaged in the production of food and feed. The new Food Hygiene regulations include obligations covered by Cross Compliance which mean that you will need to take steps to prevent contamination arising from water, soil, feed, veterinary products, pesticides, waste etc. You will need to prevent animals and pests from causing contamination and you will need to take account of results from tests relevant to animal and human health.

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<sup>7</sup> *Food law* means “the laws, regulations, and administrative provisions governing food in general, and food safety in particular, whether at Community [European] or national level; it covers any stage of production, processing and distribution of food, and also of feed produced for, or fed to, food producing animals”.

## **Feed Hygiene:**

63. The Feed Hygiene regulation<sup>8</sup> will apply to all feed businesses that make, use or market animal feed, which amount, in the main, to fairly basic hygiene procedures. The Feed Hygiene regulation includes obligations which are covered by Cross Compliance, for example controlling hazards relating to contamination and keeping appropriate records in relation to feed e.g. nature and origin of your animal feed etc.

## **Further information:**

Any queries on SMR 11 and the information contained should be directed to your local SEERAD Area Office.

Any queries on the Food and Feed Hygiene Regulations and the information contained should be directed to the Food Standards Agency Scotland at the address below:

Food Standards Agency Scotland  
6<sup>th</sup> Floor, St Magnus House  
25 Guild Street, Aberdeen  
Tel: 01224 285142 (for food);  
01224 285138 (for feed)  
Fax: 01224 285168  
Email: [strategic@foodstandards.gsi.gov.uk](mailto:strategic@foodstandards.gsi.gov.uk)

## ***SMRs 12-15 WILL APPLY IF YOU KEEP LIVESTOCK ON YOUR FARM.***

64. These SMRs include a requirement for you to notify the Divisional Veterinary Manager if you know or suspect that your livestock is infected with one of the listed notifiable disease. The Divisional Veterinary Manager can be contacted at your local Animal Health Divisional Office - details are listed at Annex 15.

## **SMR 12 Prevention and Control of Transmissible Spongiform Encephalopathies (TSE)**

65. The relevant domestic legislation relating to this SMR is currently being amended. You will be informed should there be any changes to the requirements listed below in the light of the new legislation. In the meantime, however, all the requirements listed below apply.

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<sup>8</sup> EC regulation No 1831/2003 of the European Parliament and of the Council laying down requirements for feed hygiene.

**66. You must:**

- immediately notify the Divisional Veterinary Manager of any animal suspected of being infected by a TSE e.g. BSE or scrapie
- on notification of a TSE suspect or confirmed case, fully comply with movement restrictions, including any order to slaughter and destroy the animal(s), or any other notices served by an inspector imposing measures concerning that animal or animals under the TSE Regulations 2002.
- not feed to ruminants, any animal protein or any feedingstuff, which contains animal protein, except (subject to required processing)
  - milk, milk-based products and colostrum,
  - eggs & egg products,
  - gelatine from non-ruminants,
  - hydrolysed proteins derived from non-ruminants or from ruminant hides and skins
- not feed products containing the following to farmed animals (ruminants or non-ruminants), directly or in feedingstuffs:
  - processed animal protein (includes mammalian meat and bonemeal, poultry meal, feather meal etc);
  - gelatine from ruminants
- use the following proteins for non-ruminant use only for feed production, or use or store complete feed containing them:
  - fishmeal;
  - blood products;
  - blood meal, only where fed to farmed fish;
  - dicalcium phosphate and tricalcium phosphate of animal origin, (mineral-derived versions are permitted for all livestock and are most commonly used – feed labels not specifying ‘animal origin’ can be taken to be mineral);

and only use them where:

- authorised by SEERAD to use derogated proteins to produce non-ruminant feed (e.g. on-farm mixers – authorisation is always required where ruminants are present);
- registered by SEERAD to use derogated proteins to produce non-ruminant feed where no ruminants are present (e.g. on-farm mixers).
- registered by SEERAD to use feed products containing derogated proteins on premises where ruminants are present.

67. The registration referred to in the final bullet will require farmers to confirm adequate on-farm measures, including storage and feeding arrangements, to ensure that feed containing derogated proteins are not fed to ruminants and kept adequately separated from ruminant feed. Following registration SVS inspection will confirm permission to use such products on the premises in line with EU requirements.

## **SMR 13 Control of Foot and Mouth Disease**

### **68. You must:**

- notify the Divisional Veterinary Manager if you know or suspect that an animal or carcass in your possession or under your charge is infected with foot and mouth disease; and
- keep animals infected with foot-and-mouth disease or animals suspected of being infected, away from places where other animals of susceptible species are at risk of infection or contamination.

## **SMR 14 Control of Certain Animal Diseases**

69. This relates to the following diseases: rinderpest, peste des petits ruminants, swine vesicular disease, epizootic haemorrhagic disease of deer, sheep and goat pox (capripox), vesicular stomatitis, lumpy skin disease and rift valley fever.

70. You must notify the Divisional Veterinary Manager if you know or suspect that an animal or carcass is infected with any of these diseases.

## **SMR 15 Control of Bluetongue**

71. You must notify the authorities if you know or suspect that an animal or carcass is infected with Bluetongue.

## **Good Agricultural and Environmental Condition (GAEC)**

72. Good Agricultural and Environmental Condition (GAEC) for Scotland has been developed to address the following four issues. It is based on a framework established in the European Legislation.

- **soil erosion**
- **soil organic matter**
- **soil structure**
- **minimum level of maintenance**

73. The GAEC measures for Scotland have been developed to reflect Scottish conditions and the wide variability of soils, habitats and farming systems found throughout Scotland. The following sections cover the measures that have been developed as a direct result of working closely with stakeholders from the environmental and land management sectors and the responses to the Consultation Exercise carried out in 2004.

**74. These GAEC measures are mandatory and must be followed in order to comply with Cross Compliance.**

75. Guidance which includes examples of good practice, has been developed to help you comply with these measures.

76. In all cases land subject to GAEC measures must be in a condition that will allow an inspector/auditor to undertake normal control activity (e.g. measure the area and walk the land to identify features that should not be included).

77. It is still important to consult regulatory bodies, such as Scottish Natural Heritage (SNH) Scottish Environment Protection Agency (SEPA) or Historic Scotland where proposed operations or changes in your management regime are likely to have an impact on conservation, environmental or historical interests.

## **SOIL EROSION**

### **GAEC 1 Post-harvest management of land**

#### **Measure**

78. All cropped land over the following winter must, where soil conditions after harvest allow, have either crop cover, grass cover, stubble cover, ploughed surface or a roughly cultivated surface. Fine seedbeds must only be created very close to sowing.

#### **Guidance**

79. Crop cover, retention of stubbles or a roughly cultivated surface can significantly reduce the risk of erosion, siltation of drains and nutrient loss to burns and ditches.

80. A roughly cultivated surface is a surface created by the use of discs or tines (or equivalent machinery).
81. Winter is the period that begins on the day after harvest and ends on the last day of February in the following year.
82. Cultivating land and planting crops before the end of the winter period e.g. early potatoes is allowed under this measure, provided the prevailing agronomic or weather conditions and the condition of the soil are favourable.

## **GAEC 2 Wind erosion**

### **Measure**

83. In areas prone to wind erosion you must take steps to reduce the risk of soil loss in the spring by maintaining a crop cover, using coarse seedbeds, shelter belts, nurse crops, or take other appropriate measures that have an equivalent effect.

### **Guidance**

84. You should apply all or some of these measures if there is a risk of soil erosion by the wind.
85. You should consider using minimum cultivation techniques and mulches. In addition, using a Cambridge roller instead of a flat roller could help to reduce windblow.

## **GAEC 3 Soil capping**

### **Measure**

86. On sites where capping is a problem you must form a coarse seedbed or break any cap that forms to avoid erosion.

### **Guidance**

87. A capped surface is the result of soil particles running together when wet and drying out to form a crust. This is more likely in fine sandy and silty soils and results in water infiltration being reduced to the extent where there is an observable run-off, the formation of rills and gullies and/or soil deposition at the sides of fields, on roads or in watercourses and ditches.
88. As well as increasing the risk of erosion, capping can lead to poor crop establishment and reduced yields.
89. When the soil dries out the cap can be broken by light harrowing or the use of a Cambridge roller.

## **GAEC 4 Erosion caused by livestock**

### **Measure**

90. You should prevent the erosion of land and in particular banks of watercourses, at watering points and feeding areas from overgrazing, heavy trampling or heavy poaching by livestock.
91. Where erosion occurs, action should be taken to rectify the problem by anytime during the growing season in the calendar year that follows the date that the problem has occurred. This may involve, for example, reducing stock numbers or removing stock altogether for a period of time.
92. Where erosion is identified, a management regime to deal with the erosion must be approved by SEERAD and observed on the site in question.
93. This measure does not apply to areas that are within 10 metres of a gateway and 3 metres of farm tracks necessarily used during wet-periods.

### **Guidance**

94. Areas of conservation interest should not be used for feeding sites.
95. Sacrificial feeding areas may be more desirable on improved grassland/arable land provided that the risk of soil erosion is very low.
96. When supplementary feeding outdoors, it is often preferable to rotate feeding sites and make sure feed rings are suitably positioned, in other words well away from water courses and not on ground sloping towards a watercourse.
97. Heavy poaching is the cutting up of turf to a significant degree from trampling by livestock.
98. Grazed forage cropped fields, e.g. stubble turnips or kale, that have been poached should be ploughed or sown as ground conditions allow.
99. On peaty soils this action will need to be taken earlier than on other soils due to the fragile nature and increased susceptibility of the soil to erosion.
100. Whilst the measure does not apply to areas within 10m of a gateway and 3m of farm tracks every effort should be made to minimise any effect of soil erosion. For example, in severe weather conditions, consideration should be given to the use of an alternative gateway.

## **GAEC 5 Maintenance of functional field drainage systems**

### **Measure**

101. You should maintain functional field drainage systems, including clearing ditches, unless environmental gain can be achieved by not maintaining field drainage systems.

102. Where environmental gain can be achieved this must be declared on the IACS return using the Field Data Sheet code PEM which stands for Positive Environmental Management.

### **Guidance**

103. An example of environmental gain is the creation of wetland grazing areas.

104. The timing of maintenance should be considered so that you can minimise the impact on flora and fauna i.e. during late summer or early autumn.

105. Neglected ditches and ineffective drains can increase costs and lead to a greater risk of erosion and flooding.

106. Consideration should be given to clearing just one side of the ditch in any one growing season or leaving vegetation breaks within the ditch in order to maintain wildlife corridors.

107. The clearing of ditches will be subject to the Controlled Activities (Scotland) Regulations 2006. This provision on the desilting, dredging or clearing of watercourses is due to come into force in April 2006. Further details can be obtained from SEPA for which contact details are provided in paragraph 23 of this booklet.

## **GAEC 6 Muirburn Code**

### **Measure**

108. You need to follow the latest edition of the Muirburn Code.

### **Guidance**

109. Compliance with the Muirburn Code including guidance on the statutory controls on Muirburn will help to avoid extensive erosion on steep sites through burning.

110. Periodic burning of heather and grass can be advantageous for agriculture and wildlife conservation but it can be dangerous to those involved and to others if it is not carried out correctly and responsibly. Protected species and habitats can be harmed significantly by improperly controlled muirburn. This may constitute a criminal offence.

111. Before burning we advise land managers to identify areas that are exempt from burning such as sites used for nesting by legally protected birds of prey; produce a plan of where and how burning will be carried out; and ensure that staff are adequately trained and that emergency plans are in place.

112. Some of the key points to help prevent erosion are listed below, however, you should consult the most recent edition of the Muirburn Code for the complete legal requirements and guidance. Copies of the Code are available from SEERAD and SNH local offices or from the Scottish Executive website at: [www.scotland.gov.uk/library3/environment/mbcd-00.asp](http://www.scotland.gov.uk/library3/environment/mbcd-00.asp)

113. Once all preparatory work has been completed, land managers should:
- Avoid burning when it is too dry - when the moss and plant litter on the ground surface has completely dried out;
  - Avoid burning uphill on steep slopes;
  - Avoid burning on blanket bogs, in exposed areas or in areas with thin soils;
  - Consult with SNH as necessary if protected species are present, if the land involved forms part of an SSSI, SPA or SAC or is close to a protected site.

## **SOIL ORGANIC MATTER**

### **GAEC 7 Arable crop rotation standards**

#### **Measure**

114. On arable land:

- Use suitable break crops in an arable rotation; or
- Optimise the use of organic materials by basing the rate of application on soil and crop needs. Where you do not use break crops a record should be kept for 5 years of organic materials and the quantities applied to arable land.

#### **Guidance**

115. Maintaining soil organic matter in the topsoil influences its physical, chemical and biological properties, its ease of cultivation, its water retention capacity and the nutrients available to plants. If the levels of organic matter fall it can restrict the soil's ability to support plant growth. Land that is continually cropped may be at risk from the loss of soil organic matter. Adding animal manures, incorporating crop residues or sowing out in grass can increase the levels of organic matter.

116. Where organic manure is applied, the spreading rate should be matched to the nutrient requirement of the crop and the needs of the planned crop rotation.

117. Where straw is to be incorporated, it should be done evenly, and it should be chopped straw.

118. The PEPFAA code of good practice gives additional guidance on this measure.

### **GAEC 8 Arable stubble management**

#### **Measure**

119. Incorporate livestock manures within 2 weeks after spreading on stubbles.

120. In areas prone to wind erosion, incorporation of livestock manures can be delayed.

#### **Guidance**

121. Well timed incorporation of livestock manures can help to maintain soil organic matter and guard against nutrient loss.

122. The PEPFAA code of good practice gives more guidance on the use of livestock manures.

## **SOIL STRUCTURE**

### **GAEC 9 Appropriate machinery use**

#### **Measure**

123. Do not carry out any cultivations if water is standing on the surface or the soil is saturated.

#### **Guidance**

124. Cultivations in relation to this measure is defined as the preparation for planting or sowing.

125. This measure does not apply to the harvesting of crops in order to meet contractual deadlines, or where the quality of the produce would deteriorate if not lifted.

126. Saturation is indicated by the appearance of water from the soil when pressure is applied e.g. from the equivalent of a footprint.

127. By avoiding field cultivations in wet conditions erosion, compaction and rutting of the soil will be avoided. Minimise frequent vehicle movements over the same area of land, especially when soil conditions are wet. Consider the use of low ground pressure tyres, dual wheels or tracked vehicles to minimise soil compaction.

128. The PEPFAA code of good practice gives further guidance on protecting soil structure.

## **MINIMUM LEVEL OF MAINTENANCE**

### **GAEC 10 Undergrazing**

#### **Measure**

129. Avoid undergrazing at a level where the growth of scrub or coarse vegetation is detrimental to the environmental or agricultural interest in the field.

130. Land will not be considered to be undergrazed provided it is capable of recovering by anytime during the growing season in the calendar year that follows the date that the problem first occurred.

131. Where undergrazing is identified, a management regime to be observed on that site must be approved by SEERAD.

## **Guidance**

132. Undergrazing may be identified as allowing the growth, structure or species composition of grazed vegetation to significantly deteriorate through insufficient management.
133. Often the first sign of undergrazing on a pasture is the build up of dead plant litter. Later stages include the gradual appearance of shrubs and trees.
134. Land abandonment is not allowed under Cross Compliance. Many of the wildlife areas, birds and other animals in Scotland are dependent on grazing livestock, particularly cattle. Therefore you should continue to graze and/or cut your grass to avoid land being infested by weeds, scrub etc. to such an extent that it could no longer be used for agricultural production.
135. If your stocking density decreases significantly then the land will be at a greater risk of under grazing. In this circumstance you should take remedial action or seek professional advice.
136. Biodiversity or other environmental gain may be achieved through the planned and managed encroachment of scrub and coarse vegetation.
137. It is important to consult SNH where any land affected by undergrazing forms part of an SSSI, SPA or SAC. Changes in stocking density in such areas may require SNH agreement and may affect payments due under management agreements. Support may be available for certain grazing regimes which are of conservation benefit.

## **GAEC 11 Overgrazing**

### **Measure**

138. Avoid overgrazing with livestock and other species in such numbers as to adversely affect the growth; structure; or species composition of vegetation on the land. The only exception to this is where vegetation is normally grazed to destruction to a significant degree (i.e. land that is to be cultivated immediately after grazing by livestock, which remove the entire crop).
139. Land will not be considered to be overgrazed provided it is capable of recovering by anytime during the growing season in the following calendar year.
140. Where overgrazing is as a result of an unexpected and unpredictable incursion of wild deer or geese and it can be shown that appropriate action had been taken to deal with the problem (including for deer, taking advice from the Deer Commission for Scotland (DCS)), then you will not be held accountable for overgrazing caused as a result of this infringement.
141. Where overgrazing is attributable to rabbits you will be expected to provide evidence of the use of available control methods.

142. Where overgrazing is identified, a management regime to be observed on that site must be approved by SEERAD.

### **Guidance**

143. The common conditions indicating overgrazing are:

- Clear evidence due to grazing pressure that the growth, quality or species composition of the vegetation is deteriorating to a measurable extent e.g. signs of overgrazing include: vegetation chewed back to the previous year's growth or heavily trampled, absence of flowering, large bare patches of poached soil, a lack of regeneration or visible damage to trees and saplings in woods;
- Evidence of poor condition of the vegetation combined with evidence of poor animal condition;
- Over-reliance on supplementary feed.

144. Under Sections 10 and 11 of the Deer (Scotland) Act 1996 the Deer Commission for Scotland can issue an authorisation for the control of deer on hill land to prevent serious overgrazing, where DCS is satisfied that overgrazing is being caused by deer. Initially DCS can make a request in writing to the person(s) with the shooting rights on the land concerned. If that person is unable or unwilling to kill the deer, DCS can then authorise any competent person to do so.

145. Further information can be obtained from:

Deer Commission for Scotland  
Knowsley  
82 Fairfield Road  
Inverness  
IV3 5LH.  
Tel. 01463 231751  
e-mail: [enquiries@deercom.com](mailto:enquiries@deercom.com)  
[www.dcs.gov.uk/](http://www.dcs.gov.uk/)

146. Overburning should be avoided by following the Muirburn Code.

147. It is important to consult SNH where any land affected by overgrazing forms part of an SSSI, SPA or SAC. Changes in stocking density in such areas may require SNH agreement and may affect payments due under management agreements. Support may be available for certain grazing regimes which are of conservation benefit.

148. Goose management schemes exist in a number of areas which are heavily used by geese. You should note that certain goose species are specially protected and must not be shot. All shooting is illegal out of season except under a licence granted by SEERAD.

## **GAEC 12 Ploughing pasture of a high environmental or archaeological value**

### **Measure**

149. Any proposal to plough up pasture of high environmental or archaeological value e.g. species-rich grassland, Machair habitats, pastoral woodland and heather moorland will require the consent of the relevant authority (e.g. SNH for land in SSSIs, SPAs or SACs; SEERAD for land in an agri-environment agreement) or approval under the Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (Scotland) Regulations 2002 (SSI 2002/6).

### **Guidance**

150. The Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (Scotland) Regulations 2002 came into force on 4 February 2002. The aim of the regulations is to protect uncultivated or semi-natural areas where they are likely to be of particular environmental or cultural importance.

151. Further information and guidance on Environmental Impact Assessments can be obtained from your local SEERAD Area office or from the Scottish Executive website - [www.scotland.gov.uk/about/ERADRA/LURP3/00016808/page835780516.aspx](http://www.scotland.gov.uk/about/ERADRA/LURP3/00016808/page835780516.aspx)

152. It is a criminal offence to damage any natural feature designated as a SSSI, SPA or SAC. Unauthorised ploughing of a designated site may attract significant penalties over and above any Cross Compliance sanctions.

## **GAEC 13 Protection of rough grazings/semi natural areas**

### **Measure**

153. To ensure the protection of rough grazings and other semi-natural areas you must not undertake new drainage works, ploughing, clearing, levelling, re-seeding or cultivating unless approved under the Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (Scotland) Regulations 2002 (SSI 2002/6).

### **Guidance**

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

155. Ploughing, cultivating and re-seeding results in the natural vegetation being destroyed and replaced with sown grasses.

156. New drainage works and modification of existing drains cause lowering of the water table which results in the loss of wetland plant communities and their associated fauna.

157. In nearly all areas of deep peat, re-cutting moorland grips beyond what is needed for routine maintenance is also considered damaging and should not be carried out.
158. Further information and guidance on Environmental Impact Assessments can be obtained from your local SEERAD Area office or from the Scottish Executive website -  
[www.scotland.gov.uk/about/ERADRA/LURP3/00016808/page835780516.aspx](http://www.scotland.gov.uk/about/ERADRA/LURP3/00016808/page835780516.aspx)
159. It is important to consult SNH where the land in question forms part of an SSSI, SPA or SAC. SNH consent for certain operations may be required and it is a criminal offence to damage such sites without authorisation. Payments due under management agreements may also be affected.

## **GAEC 14 Application of lime and fertiliser on rough grazings/semi natural areas**

### **Measure**

160. To ensure the protection of rough grazings and other semi-natural areas, pesticides, lime or fertiliser must not be applied except in the situations specified below or as approved under the Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (Scotland) Regulations 2002 (SSI 2002/6).
161. Exceptions are allowed in the following circumstances:
- Herbicides may be applied to control injurious weeds as defined in the Weeds Act 1959, and with the prior written approval of SEERAD for the control of other plants e.g. Japanese Knotweed and Giant Hogweed.
  - For the control of bracken with Asulam or other approved herbicides; or
  - The application of lime or fertiliser where no conservation damage will result e.g. holding fields adjacent to hill livestock pens.

### **Guidance**

162. The Weeds Act 1959 applies to the following injurious weeds: spear thistle, creeping or field thistle, curled dock, broadleaved dock and ragwort.
163. SEPA should be consulted if it is intended to use a pesticide in or near a watercourse.
164. The PEPFAA code of good practice gives guidance on pesticide and fertiliser use.
165. Further information and guidance on Environmental Impact Assessments can be obtained from your local SEERAD Area office or from the Scottish Executive website -  
[www.scotland.gov.uk/about/ERADRA/LURP3/00016808/page835780516.aspx](http://www.scotland.gov.uk/about/ERADRA/LURP3/00016808/page835780516.aspx)

## **GAEC 15 Field boundaries**

### **Measure**

166. You must not damage, nor without the prior written agreement of SEERAD and/or other statutory bodies remove or destroy any of the following boundary features: drystone or flagstone dykes, turf and stone-faced banks, walls, hedges and hedgerow trees, boundary trees and watercourses.
167. No hedge trimming is permitted between 1 March and 31 July except for roadside hedge trimming required in the interest of road safety.
168. Written approval is not required where you propose to widen field entrances to enable access for livestock or farm machinery.

### **Guidelines**

169. Traditional field boundaries provide valuable shelter for stock, nesting cover for birds and a variety of habitats and food for wildlife. They are significant features in the landscape and the older boundaries may form part of ancient enclosure patterns of archaeological or historical interest.
170. Examples of potentially damaging activities are:
- The use of machinery, including cultivations, the application of fertilisers or pesticides, or the storage of materials including livestock manures or straw or silage bales, on or within 2 metres of field margins or the base of hedges or dykes or the banks of watercourses.
  - The canalisation or culverting of watercourses. This type of activity will be regulated by SEPA under the Controlled Activities (Scotland) Regulations 2006, this provision is due to come into force in April 2006.
  - The cutting of bankside vegetation between 1 March and 31 July except to control injurious weeds (as defined in the Weeds Act 1959) as well as Bracken, Japanese Knotweed and Giant Hogweed.
  - The use of trees as straining posts.

## **GAEC 16 Non-productive landscape features**

### **Measure**

171. You must avoid the deterioration of non-productive landscape features which are part of the agricultural unit, such as shelter belts, copses and ponds.
172. Deterioration is defined as:
- Not maintaining functional stockproof fences around shelter belts and copses.
  - Severe poaching where feeding and/or other husbandry practices of livestock occur in copses and shelterbelts. Land will not be considered to be severely poached if it can recover to the extent that there is no longer a predominately muddy surface by anytime during the growing season in the following calendar year.
  - Failure to maintain ponds on the holding e.g. eutrophication, drainage.

## **Guidelines**

173. These features should be protected from damaging activities such as drainage or felling (except where this is the subject of specific consent by SEERAD or the appropriate regulatory authority, in particular the Forestry Commission for felling licences). Land managers should take reasonable positive action to prevent these features from deteriorating.
174. Severe poaching is defined as the cutting up of turf by the trampling of livestock to the destruction of the underlying vegetation leading to a predominantly muddy surface.

## **GAEC 17 Historic features**

### **Measure**

175. You must avoid altering, damaging or destroying protected elements of the historic environment. These elements are scheduled monuments, listed buildings and sites included in the Inventory of Historic Gardens and Designed Landscapes.
176. Monuments of national importance are scheduled under the Ancient Monuments and Archaeological Areas Act 1979. No works affecting such monuments may be carried out or permitted without the prior written consent of the Scottish Ministers (known as Scheduled Monument Consent (SMC)).
177. Buildings of special architectural or historic interest are listed under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The alteration or demolition of such buildings requires Listed Building Consent (LBC) from the local planning authority.

### **Guidance**

178. Information regarding protected elements of the historic environment is available from several sources:
- Local Authorities;
  - SNH
  - Historic Scotland; and
  - on line at [www.pastmap.org.uk](http://www.pastmap.org.uk)
179. Pastmap provides online data on the location of scheduled monuments, listed buildings and Inventory sites. For detailed information about specific monuments, buildings and sites, owners should contact their local authority in the first instance. Your local authority will be able to put you in touch with their conservation and archaeology services.

180. Historic Scotland can be contacted at:

Historic Scotland  
Longmore House  
Salisbury Place  
Edinburgh, EH9 1SH  
Tel: 0131 668 8777  
e-mail: [hs.farming@scotland.gsi.gov.uk](mailto:hs.farming@scotland.gsi.gov.uk)  
[www.historic-scotland.gov.uk](http://www.historic-scotland.gov.uk)

181. Sites included in the Inventory of Historic Gardens and Designed Landscapes are also protected. Developments affecting such sites may require special consideration in the planning process. Copies of the Inventory can be consulted at main public libraries, local SNH offices or SEERAD offices.

## **GAEC 18 Encroachment of unwanted vegetation**

### **Measure**

182. You must avoid the encroachment of unwanted vegetation which degrades the agricultural and environmental value of the land to the extent that the land is not capable of returning to agricultural production by any time during the growing season in the following calendar year.

183. Taking the above into account, the encroachment of native species is allowed in the following instances:

- recolonisation of trees across the boundary line from native woodland.
- recolonisation of scrub species such as gorse, birch and juniper as part of a mosaic of habitats.
- reversion of land to wet grassland or wetland.

184. Where environmental gain is to be achieved this must be declared on the IACS return using the data sheet code for Positive Environmental Management (PEM).

### **Guidance**

185. Through appropriate grazing, topping or other permissible methods of control land managers can prevent the severe encroachment of unwanted vegetation which is both agriculturally and environmentally degrading including rhododendron, bracken, weeds covered by the Weeds Act 1959, Japanese Knotweed, Giant Hogweed and Himalayan Balsam.

186. Patterns of ecological succession will be regarded as consistent with Good Agricultural and Environmental Condition provided that:

- They are consistent with maintaining the ecological status of protected areas (e.g. SSSIs, SPAs and SACs).
- The growth of scrub is easily reversible through regular cutting, use of approved herbicides or grazing.

## Non-compliance

187. **If the Statutory Management Requirements or Good Agricultural and Environmental Conditions are not complied with your Single Farm Payment and other direct payments can be reduced.**
188. Any reduction will be applied to the overall amount of direct payments that have been or will be granted following the submission of an aid application in the calendar year that the non-compliance was found.
189. If you negligently fail to comply with a Cross Compliance requirement, your overall direct payments will generally be reduced by 3%, but this reduction can be reduced to 1% or increased to 5% depending on the seriousness of the breach.
190. In cases of intentional non-compliance, your overall direct payments will generally be reduced by 20% but this reduction can be reduced to 15% or increased to 100%. Intentional non-compliance may even result in exclusion from that scheme in the following calendar year.
191. In some circumstances, farmers may not be penalised for very minor or technical infringements of Cross Compliance rules.
192. **Detailed guidance on penalties can be found in Part B.**

## Inspections and Enforcement

193. Many Cross Compliance requirements are based on existing legislation and practices for which inspection arrangements are already in place. Where possible, SEERAD will co-ordinate inspections with other enforcement bodies such as the Scottish Environment Protection Agency (SEPA), Scottish Natural Heritage (SNH) and the State Veterinary Service (SVS).
194. In some circumstances administrative checks may be used to identify non-compliance. An example of the type of check that may be undertaken would involve the cross-checking of information held by the British Cattle Movement Service (BCMS) to identify breaches of the Animal Identification and Registration requirements.
195. **If you don't make claims under any of the direct payment schemes, although you are not required to comply with GAEC, you are still obliged to meet the existing EU requirements under the SMRs.**
196. **You should note that you are still bound by all other environmental and animal health and welfare laws.** You may still be prosecuted in the criminal courts for breaching the SMRs, if the breach would be a criminal offence. In addition, if you have an Agri-Environment Agreement, you are still obliged to meet all the standards of Good Farming Practice and the General

Environmental Conditions. The explanatory booklets for these schemes contain full details of these requirements.

197. The inspection types that can be carried out at farm level are:

<b>Inspection Type</b>	<b>Minimum sample requirement</b>	<b>What will be checked?</b>	<b>What if I don't claim under a direct payment scheme?</b>	<b>If I claim can it affect my payments?</b>
Cross Compliance	1%	Cross Compliance standards check; SMR + GAEC (will include a cattle, sheep and pig identification inspection)	This does not remove the obligation to meet the existing EU requirements under the SMR's	Yes
Single Farm Payment	5%	SFP eligibility check	You will not be inspected	Yes
Cattle Identification Inspection	10%	Check of all cattle and records against CTS	All cattle keepers can be inspected	Yes, SMR requirement
Sheep Identification Inspection	5% provisional	Count of all sheep, check of tags and records	All sheep keepers can be inspected	Yes, SMR requirement
LFASS and Agri-environment schemes	5%	Land and Good Farming Practice and General Environmental Conditions	You must submit an LFASS claim on your SAF or hold an agri-environment agreement	Yes, if you breach SMRs

## Further information

198. Your SEERAD area office is the first point of contact for guidance on Cross Compliance rules. Contact details are listed at Annex 14. For general information you can access the SEERAD website at [www.scotland.gov.uk/Topics/Agriculture](http://www.scotland.gov.uk/Topics/Agriculture)
199. Guidance on some of the SMRs is produced by the enforcement agencies including SNH and SEPA. Information on Cross Compliance and SNH management agreements is available at: <http://www.scotland.gov.uk/library5/environment/fgsssi-00.asp>
200. The relevant EC regulations can be obtained from the European Union website at [www.europa.eu.int/eur-lex/en/index.html](http://www.europa.eu.int/eur-lex/en/index.html). The relevant domestic law provisions can be obtained from Her Majesty's Stationery Office website [www.hmso.gov.uk](http://www.hmso.gov.uk) or by telephone 0870 600 5522.

# **PART B**

## **CROSS COMPLIANCE PENALTIES**

### **Introduction**

201. This section describes the Cross Compliance penalty framework that applies to the following schemes, referred to as the direct payment schemes.

- Single Farm Payment Scheme (SFPS)
- Protein Crop Premium (PCP)
- Energy Crop Scheme (ECS)
- Scottish Beef Calf Scheme (SBCS)
- Nuts Aids Scheme (NAS)

There are 11 annexes associated with the penalty guidance. Annex 1 sets out the penalty matrix and shows the penalty that will be applied depending on the category of breach. Annexes 2 to 11 contain guidelines for categorising a breach of Cross Compliance. Whilst these annexes describe the majority of problems, they don't cover every possible scenario. Any breaches not covered in the guidance will be considered as and when they arise. Guidelines for breaches of the Statutory Management Requirements (SMR's) to be introduced on 1 January 2006 will be issued later.

202. In addition to the Annexes, Part B provides information on the principles for assessing Cross Compliance breaches. The standards and requirements of Cross Compliance are set out in:

- Council Regulation (EC) No 1782/2003
- Commission Regulation (EC) No 796/2004; and
- Scottish Statutory Instrument 2004 No. 518, The Common Agricultural Policy Schemes (Cross Compliance) (Scotland) Regulations 2004.

203. Cross Compliance is divided into two key sets of requirements. Farmers and crofters must meet these requirements in order to receive support payments in full under the direct payment schemes. They are:

- a) Maintenance of land in Good Agricultural and Environmental Condition (GAEC). The GAEC measures address four areas:
- Soil erosion
  - Soils organic matter
  - Soil structure; and
  - Minimum levels of maintenance.

b) Compliance with Statutory Management Requirements (SMR's). The SMR's relate to existing European Legislation on:

- the environment,
- public and plant health,
- animal health and welfare, and
- livestock identification and traceability.

GAEC has been in place since 1 January 2005. The SMR's are being phased in over a three year period:

- ➔ **from 1 January 2005:** EC Directives relating to the environment, habitat and species protection and livestock identification and traceability;
- ➔ **from 1 January 2006:** EC Directives relating to notification of diseases, public, animal and plant health; and
- ➔ **from 1 January 2007:** Directives covering animal welfare requirements.

## BASIC PRINCIPLES OF THE PENALTY FRAMEWORK

204. Where non-compliance is identified, the breach will be assessed in terms of:

- intent
- extent
- severity
- permanence; and
- repetition.

The assessment of each of these principles will be used to determine whether a penalty is applied and at what level. Any reductions will be applied to the overall amount of direct payments that have been, or will be granted to a farmer in the calendar year that the non-compliance was found.

A guide for determining each of these principles is set out below.

Annex 1 contains a copy of the penalty matrix. This details the categories against which every breach must be assessed, and the matching penalty.

### Intent

205. Where a farmer breaches the Cross Compliance requirements and has acted intentionally or negligently, a penalty will generally be imposed. The working descriptions for **Negligent** and **Intentional** are as follows:

#### Negligent

206. This is where a farmer has breached a SMR or GAEC measure as a result of failing to take reasonable care, skill and foresight. An example of this would be a farmer who fails to check his cattle to ensure ear tags are still in place.

207. In the case of negligence, payments will normally be reduced by 3%. If there is more than one negligent breach the penalties will accumulate, but the overall reduction will not exceed 5%. This does not apply when dealing with repeat breaches as explained later. In some situations where there is a minor or technical violation of the Cross Compliance rules the penalty may be reduced to 1% or there may be no penalty at all.

### Intentional

208. Intentional non-compliance has been defined as being the same as its legal meaning within criminal and civil law. Very broadly, an intentional non-compliance is where the applicant has **knowingly breached the rules that are set out with an understanding of what he was doing and the likely consequences of his actions.** An example of an intentional non-compliance would be a farmer removing a hedge after his application for consent had been turned down.
209. In cases of intentional non-compliance, there is a minimum penalty of 15% and a maximum penalty of 100% and may even result in exclusion from the direct payment schemes in the following calendar year.

### **Extent**

210. Article 41 of Commission Regulation (EC) No 796/2004 defines Extent as:

*“The ‘extent’ of non-compliance shall be determined taking account, in particular, of whether the non-compliance has a far-reaching impact or whether it is limited to the farm itself”.*

211. Extent in this context is whether the effects of a breach will be felt on farm or off farm. For example, to assess the impact of soil erosion, we must consider whether the effects have been confined to the farm or have spread to the wider environment e.g. downstream watercourses or deposition on a neighbour's field or public road.

### **Severity**

212. Article 41 of Commission Regulation (EC) No 796/2004 defines Severity as:

*“The ‘severity’ of non-compliance shall depend, in particular, on the importance of the consequences of the non-compliance taking account of the aims of the requirement or standard concerned.”*

213. In other words what effect has the particular breach had in relation to what the measure or requirement is intended to achieve. The severity is assessed under three headings - Minimum, Medium or High. Guidance used by inspectors to help categorise the severity of a breach is set out in Annexes 2 to 11.

## Permanence

214. Article 41 of Commission Regulation (EC) No 796/2004 defines Permanence as:

*“Whether non-compliance is of ‘permanence’ shall depend in particular, on the length of time for which the effect lasts or the potential for terminating those effects by reasonable means.”*

215. Taking the above into account, the permanence of a breach will be classed as either rectifiable (minor), rectifiable or permanent. Permanent breaches attract higher penalties than rectifiable breaches due to their longer term effect. Again guidance set out in Annexes 2 to 11 helps to categorise the permanence of a breach.

## Repetition

216. If non-compliance with the same requirement or standard is identified within a consecutive period of three years, it will be considered to be a repeat breach.

217. Most of the GAEC measures relate to one standard. For example GAEC 1 (as defined in Annex 2) relates to the prevention of soil erosion over the winter period. If soil erosion under GAEC 1 is identified in 2005 and again in 2006 then this would be considered a repeat breach.

218. Some GAEC measures as well as the SMR's relate to more than one standard or requirement. For example GAEC measure 15 relates to the retention of a range of boundary features. To be considered a repeat the farmer has to have breached the same standard. For example, if in 2005 a farmer removes a hedge and in 2006 removes a dyke, this wouldn't be considered to be a repeat since the breaches relate to different boundary features, i.e. different standards. Equally, under the livestock identification and traceability SMR's (6, 7 and 8) there are a range of different requirements including: - incorrect tagging, not reporting movements, incorrect dates of birth and not reporting deaths. Consequently if incorrect dates of birth are found in 2005, and a non notified death is found in 2006 then this would not be considered a repeat breach.

219. Once a repeat breach has been identified the associated penalty must be considered. Article 66(4) of Commission Regulation (EC) No 796/2004 states that where repeated breaches have been determined, the percentage penalty will be three times the penalty applied to the first breach. The following examples demonstrate this:

### 220. Example One

During an inspection in February 2005, incorrectly tagged cattle were found (SMRs 7-8) resulting in a 1% penalty.

In November 2006 further animals are discovered incorrectly tagged - a repeat of the breach identified in 2005. Therefore a 3% penalty (1% x 3) is applied.

In the case of further repetitions of negligent breaches the multiplication factor three will be applied each time to the result of the reduction fixed in respect of the previous repeated breach. The maximum reduction will, however, not exceed 15%.

221. Example Two

During an inspection in February 2005, soil erosion on cropped land (GAEC measure 1) is identified resulting in a 3% penalty.

In December 2006 a further breach of GAEC measure 1 is identified - a repeat of the breach in 2005. Therefore a 9% penalty (3% x 3) is applied.

In December 2007, a third breach of GAEC measure 1 is identified – a repeat of the breaches identified in 2005 and 2006. In this case 9% multiplied by 3 gives 27% but the maximum penalty ceiling is 15% and so the 27% is scaled back down to 15%.

Once the maximum percentage of 15% has been reached any further repeat breach will be considered as intentional. The resulting penalty will be 3 times the result of the previous penalty before (where applicable) the limitation to 15%.

In example two, the third breach would have resulted in a 27% penalty without the 15% ceiling. A fourth breach would therefore result in an 81% penalty (27% x 3).

## **AREAS OF CROSS COMPLIANCE AND MULTIPLE FIRST TIME BREACHES**

222. Cross Compliance is classified under 4 'Areas'. These are:

- Environment (SMR's 1, 2, 3, 4, 5)
- Public, animal and plant health (SMR's 6, 7, 8, 8a, 9, 10, 11, 12, 13, 14, 15)
- Animal welfare (none until 2007)
- GAEC (All GAEC measures)

223. There are a number of rules governing the calculation of penalties from multiple first time breaches. If there is more than one breach within the same area, the highest determined penalty figure is applied. Alternatively, if there is more than one breach and they are in different areas then the penalty figures are added together. First time breaches or multiple first time breaches under the negligent category cannot exceed 5% in the first year. Three examples are provided below to help demonstrate these rules:

224. Example One

During an inspection two breaches of Cross Compliance are identified.

- 1) Unauthorised disposal of sheep dip (SMR 2) which results in a 1% penalty.
- 2) Excess Nitrogen application within a NVZ (SMR 4) which results in a 3% penalty.

Both of these breaches fall with the 'Environment' area of Cross Compliance and so the highest penalty figure is used. In this case it is the 3% which is taken and applied to any claims made under the direct payment schemes.

225. Example Two

During an inspection two breaches of Cross Compliance are identified.

- 1) Unauthorised disposal of sheep dip (SMR 2) which results in a 1% penalty.
- 2) Failure to report cattle movements (SMR's 7-8) which results in a 3% penalty.

These breaches fall into different areas of Cross Compliance, the first into 'Environment' and the second into 'Public, animal and plant health' and as a result the two penalties must be added together. This gives 4 % which is applied to any claims made under the direct payment schemes.

226. Example Three

During an inspection two breaches of Cross Compliance are identified.

- 1) Unauthorised disposal of sheep dip (SMR 2) which results in a 3% penalty.
- 2) Failure to report cattle movements (SMR's 7-8) which results in a 3% penalty.

As in example two, these breaches fall into different areas of Cross Compliance, the first into 'Environment' and the second into 'Public, animal and plant health' and as a result the two penalties are added together. This gives 6 % but because both breaches are in the negligent category and are first time breaches the 5% ceiling applies. Therefore the 6% is scaled back to 5% and applied to any claims made under the direct payment schemes.

## **ONE BREACH COVERING BOTH GAEC and SMR**

227. In some situations one breach of the Cross Compliance rules may impact on two standards or requirements. In these situations this is considered to be one breach and only the breach with the highest determined penalty figure is used.

228. Example

At an inspection in July 2005, overgrazing on a Natura 2000 site is identified. This is a breach of the Habitats Directive (SMR 5) and results in a 5% penalty but it is also a breach of the overgrazing measure under GAEC (number 11) and results in a 3% penalty. Both penalties have come from the same breach source and so only the highest determined penalty figure is used – in this case 5%.

## **MULTIPLE BREACHES WITH BOTH FIRST TIME AND REPEAT BREACHES**

229. Paragraphs 222 - 226 describe the penalty situation where multiple first time breaches are identified. This section explains the penalties applied when multiple breaches are a mixture of first time breaches and repeat breaches.

230. In cases where a repeat breach is determined together with another breach or another repeated breach the resulting percentage penalties are added together. Consideration is given to the 15% limit explained in paragraph 220. The following examples demonstrate how penalties are calculated when there are both first time and repeat breaches.

### 231. Example One

During an inspection three breaches of Cross Compliance are identified.

- 1) Unauthorised disposal of sheep dip (SMR 2) is determined for the first time which results in a 1% penalty.
- 2) Failure to report cattle movements (SMR's 7-8) is determined for the first time which results in a 3% penalty.
- 3) A dyke is removed without authorisation (GAEC 15) for the second year in a row, a repeat breach which results in a 3% penalty.

There are two first time breaches. Breach 1 is from the 'Environment' area and breach 2 is from the 'Public, animal and plant health' area. Because these breaches are from different areas they are added together to give 4%. This 4% is then added to the repeat breach of 3% to make the total penalty figure 7%.

### 232. Example Two

During an inspection three breaches of Cross Compliance are identified.

- 1) Unauthorised disposal of sheep dip (SMR 2) is determined for the first time which results in a 1% penalty.
- 2) Excess Nitrogen application within a NVZ (SMR 4) is determined for the first time which results in a 3% penalty.
- 3) A dyke is removed without authorisation (GAEC 15) for the second year in a row, a repeat breach which results in a 3% penalty.

Both of the first time breaches are from the 'Environment' area which means that the highest determined penalty figure is used, in this case 3%. This 3% is then added to the repeat breach of 3% to give a total penalty figure of 6%.

### 233. Example Three

During an inspection three breaches of Cross Compliance are identified.

- 1) Unauthorised disposal of sheep dip (SMR 2) is determined for the first time which results in a 3% penalty.
- 2) Failure to report cattle movements (SMR's 7-8) is determined for the first time which results in a 3% penalty.
- 3) A dyke is removed without authorisation (GAEC 15) for the second year in a row, a repeat breach which results in a 3% penalty.

Of the first time breaches, breach 1 is from the 'Environment' area and breach 2 is from the 'Public, animal and plant health' area which means they are added together to give 6%. However because they are both first time negligent breaches, the 5% penalty limit applies. Therefore the 6% is reduced to 5% and added to the repeat breach of 3% to give an overall penalty figure of 8%.

234. Example Four

During an inspection three breaches of Cross Compliance are identified.

- 1) Unauthorised disposal of sheep dip (SMR 2) is determined for the first time which results in a 3% penalty.
- 2) Failure to report cattle movements (SMR's 7-8) is determined for the first time which results in a 3% penalty.
- 3) A dyke is removed without authorisation (GAEC 15) for the second year in a row, a repeat breach which results in a 15% penalty.

Of the first time breaches, breach 1 is from the 'Environment' area and breach 2 is from the 'Public, animal and plant health' area which means they are added together to give 6%. However because they are both first time negligent breaches, the 5% limit applies. Therefore the 6% is scaled back to 5% and added to the repeat breach of 15%. This gives an overall figure of 20% but because all three breaches are classified as negligent, the 15% limit for negligent breaches applies. The 20% is reduced to 15% and applied to any claims made under the direct payment schemes.

235. Example Five

During an inspection two breaches of Cross Compliance are identified.

- 1) Soil erosion on cropped land over the winter period (GAEC 1) is found for the 2nd time which results in a 9% penalty.
- 2) A dyke is removed after consent for removal had been refused (GAEC 15) and is classified as an intentional breach resulting in a 30% penalty.

The 'Areas' of Cross Compliance do not apply for repeat negligent breaches or intentional breaches. So, in the example above, the 9% is added to the 30% to give an overall penalty figure of 39%.

## STANDARD OF PROOF AND RIGHT TO APPEAL

236. As the SMR's are based on existing European legislation, farmers and crofters who commit serious breaches could potentially be taken to court by the relevant Statutory Authority. For example a farmer who has falsified a cattle passport may be prosecuted by the Local Authority.
237. Unlike criminal prosecutions, the lower civil standard of proof will be used to decide whether or not Cross Compliance requirements have been breached. In other words, even if there is no criminal prosecution, Cross Compliance penalties can still be applied. Civil standard of proof relates to the balance of probability. If an inspector can provide evidence to show that on the balance of probability a breach has been committed then this is enough to allow a Cross Compliance penalty to be applied. Farmers or crofters who dispute the findings can lodge an appeal under the existing EU Appeals procedure.

### Appealing against our decision

238. If you are not sure why we have penalised you or you do not understand our decision, ask your SEERAD area office to explain.

If you are not satisfied with this explanation, you can ask us to review our decision under the EU Agricultural Subsidy Schemes Appeals procedure. You have 60 calendar days from the date of our decision letter to send in your appeal. The appeals procedure has three stages – an in-house review, an external panel review and an appeal to the Scottish Land Court.

You can get a booklet on the appeals procedure from any area office or from:

Appeals Secretariat  
SEERAD  
Room 028  
Pentland House  
47 Robb's Loan  
Edinburgh  
EH14 1TY.

The appeals procedure does **not** handle complaints about our standard of service.

### Complaining about our standard of service

239. If you have a complaint about our **standard of service**, you should do the following.
- Contact the person at your SEERAD area office who is dealing with your case. You may complain by letter, by phone, or in person. If you want a more senior officer to consider your complaint, write to the Principal Agricultural Officer at your SEERAD area office. They will either deal with your complaint or pass it to the appropriate person. It will help us to investigate your complaint if you set out the facts as fully as possible, and

give your main farm code number. We will acknowledge your complaint as soon as we receive it, investigate it properly and aim to reply within two weeks.

- If you are not satisfied with this reply, fill in the complaint form (which you can get from any area office) and send it to:

The Central Complaints Team  
The Scottish Executive Environment and Rural Affairs Department  
Pentland House  
47 Robb's Loan  
Edinburgh  
EH14 1TY.

You can also ask your Member of the Scottish Parliament or your Member of the UK Parliament to take up your complaint with the Minister for Environment and Rural Development.

You, or your authorised representative, may also ask the Scottish Public Services Ombudsman to investigate your complaint. Your representative may be an MSP, local councillor or any person you consider suitable to represent your interests. Your complaint must be with the Scottish Public Services Ombudsman within 12 months of the day you first knew of the problem. You can get more information about the Scottish Public Services Ombudsman at:

Scottish Public Services Ombudsman  
4 Melville Street  
Edinburgh  
EH3 7NS.  
[www.scottishombudsman.org.uk](http://www.scottishombudsman.org.uk)

- You can get a booklet on the complaints procedure from an area office or from:

The Central Complaints Team  
The Scottish Executive Environment and Rural Affairs Department  
Pentland House  
47 Robb's Loan  
Edinburgh  
EH14 1TY.

## COMMON PROBLEMS FOUND AT CROSS COMPLIANCE INSPECTIONS

240. The 12 most common problems are listed below and will lead to penalties against payments made or due under the Single Farm Payment Scheme, Scottish Beef Calf Scheme, Protein Crop Premium, Nuts Aid Scheme and Energy Crop Scheme (Direct Payment Schemes). Actions required to avoid these problems are also described.

241. **Please note these are only the most common problems found at inspection. All Cross Compliance requirements must be met in order to receive full payment under any of the Direct Payment Schemes. These requirements are set out in Part A of this booklet.**

### Cattle Identification and Registration Discrepancies

242. The complete guide on cattle tracing is contained in the 'Cattle Keepers Handbook' issued by the British Cattle Movement Service (BCMS). This gives full details of all the things you need to do to comply with cattle identification and traceability and therefore all the things you need to do to avoid penalties. If you have a business with more than one holding (permanent or seasonal) you need to ensure that the requirements are followed for each individual holding.

243. Animals do not have matching eartags and documentation.

When an animal moves onto your holding check all the details on the passport/Certificate of Registration (CoR) (including eartag) match the animal. If problems are found take the matter up immediately with the consigning keeper.

244. Passport details do not match eartags and records held on farm.

When you register a calf check to see you have received the passport within two weeks of application. On receiving the passport, carefully check all details. If you do not receive the passport, check the application status with the British Cattle Movement Service (BCMS).

245. Movements are not notified to BCMS or are not recorded in herd registers.

Unless a BCMS link exists between the receiving and consigning holding, all movements on and off your holding must be reported to BCMS within three days, including 'within' business moves. These movements must also be recorded in your herd register.

If your animals move directly from or to a market/abattoir in Scotland, all markets and almost all abattoirs will electronically transmit the on and off farm moves to BCMS. Please check that this is the case and that they are moving animals on to and from the correct location.

246. Passports are not returned to BCMS for dead animals.

Return passports for dead animals to BCMS within seven days

Note - for animals over 24 months old that die on farm the animal must be sent for BSE testing. You must complete the death details in the passport or CoR and make sure this document goes with the animal for testing.

247. Discrepancies found in record keeping including movements, births and deaths.

Record keeping is your responsibility. Even if you arrange for someone else to maintain your records you, as the registered keeper, must check to ensure that the records are accurate and up-to-date for all livestock.

248. Animals have missing eartags.

Regular checks should be made of cattle to ensure that lost or illegible tags are replaced within 28 days of discovery.

### **Sheep identification and record keeping**

249. Sheep have not been tagged with baseline tags and movement tags.

Ensure that all sheep and goats are correctly tagged within the required timescales. Check when receiving sheep that they are properly tagged. If problems are found, take this up immediately with the consigning keeper.

250. Continuous flock records are not kept up to date.

Ensure that all movements, births, deaths and flock counts are recorded in the continuous flock record. Ensure that movement documents are completed, retained and sent to the Scottish Animal Movement Unit (SAMU) as and when required. Again, record keeping is your responsibility. Even if you arrange for someone else to keep your records, you must check to ensure that the records are accurate and up-to-date for all livestock.

### **Boundary Features**

251. Boundary features including hedges and dykes have been removed without first obtaining consent from SEERAD.

Consent should be sought from SEERAD before any boundary feature is removed.

### **Waste Sheep Dip Disposal**

252. Waste sheep dip has been disposed of on land without obtaining a Groundwater Authorisation from the Scottish Environment Protection Agency (SEPA). Also, exceeding the terms and conditions of a Groundwater Authorisation (quantity of dip, number of applications, and dip disposals on unauthorised locations on the same unit).

A common problem has been the lack of record keeping which is required by the Authorisation. The information required is stipulated in the conditions and will include the date, location, type of sheep dip, volume and dilution details of the disposals undertaken.

Payment of SEPA's annual subsistence fees is required as a condition of the Authorisation. Non-payment could result in revocation of the Authorisation by SEPA and any subsequent illegal disposal to land would be a breach of Cross Compliance.

A Groundwater Authorisation should be obtained from SEPA before any waste sheep dip is spread onto land. Also, the terms and conditions of a Groundwater Authorisation must be followed.

### **Nitrate Vulnerable Zones (NVZ's)**

253. Action Programme measures in NVZ's are not being followed.

Farm records must be kept for at least five years, from the date of the last entry, including details of cropping, livestock numbers, the use of inorganic (chemical) nitrogen fertilisers and organic manure.

*A Fertiliser and Manure Plan* must be prepared and implemented each year and is required to:

- establish the quantities of livestock manure produced on the farm.
- demonstrate sufficient storage capacity and land available for spreading organic manure.
- contain an assessment of the amount of nitrogen available to grass and crops following application of organic manure.
- contain an assessment of crop and grass requirement for nitrogen fertiliser in each field taking account of nitrogen supply from soil organic matter, crop residues and organic manure.

Observe closed periods for spreading inorganic (chemical) nitrogen fertilisers and organic manure and do not spread organic manures within 10m of a watercourse.

Full details of NVZ requirements can be found in the SEERAD booklet titled 'Guidelines for Farmers in Nitrate Vulnerable Zones'

### **Soil Erosion at Watering Points**

254. Livestock access to watercourses is causing erosion of banksides and entry of soil to the water.

Livestock numbers should be carefully controlled to ensure that soil erosion is avoided at watering points, particularly where there is direct access to a watercourse. Laying hardcore, erecting barriers and installing water troughs are other examples of preventing soil erosion and ensuring soil does not enter the watercourse.

## Cross Compliance Penalty Matrix

Intent	Extent	Severity	Permanence	Penalty for				
				1 <sup>st</sup> breach	1 <sup>st</sup> repetition	2 <sup>nd</sup> repetition	3 <sup>rd</sup> repetition	4 <sup>th</sup> repetition
Negligence	Effects limited to farm	Minimum effect	Rectifiable (minor)	Warning letter	1%	3%	9%	15%
			Rectifiable					
			Permanent	1%	3%	9%	15%	81%
		Medium effect	Rectifiable					
			Permanent	3%	9%	15%	81%	100%
			Rectifiable					
	Effects also off farm	Minimum effect	Rectifiable	1%	3%	9%	15%	81%
			Permanent	3%	9%	15%	81%	100%
			Rectifiable					
		Medium effect	Permanent	5%	15%	45%	100%	100% plus exclusion from scheme in the following year
			Rectifiable	3%	9%	15%	81%	100%
			Permanent	5%	15%	45%	100%	100% plus exclusion from scheme in the following year
Intentional	Effects limited to farm	Minimum effect	Rectifiable	15%				
			Permanent	20%				
			Rectifiable					
		Medium effect	Permanent	30%				
			Rectifiable					
			Permanent	50-100%				
	Effects also off farm	Minimum effect	Rectifiable	30%				
			Permanent	40%				
			Rectifiable					
		Medium effect	Permanent	60%				
			Rectifiable					
			Permanent	100%				
100% + exclusion from scheme in following year								

## Good Agricultural and Environmental Condition – Assessing Non-Compliance

GAEC Measure	GAEC Measure Requirements	Definition – Description and Measurement of the Extent of non-compliance	Extent – On farm / Off farm	Severity – Minimum / Medium / High	Permanence – Rectifiable (minor) / Rectifiable / Permanent
GAEC 1	All cropped land over the following winter must, where soil conditions after harvest allow, have either: crop cover, grass cover, stubble cover, ploughed surface or a roughly cultivated surface. Fine seedbeds must only be created very close to sowing.	Soil erosion: - up to 0.5ha. - more than 0.5 ha but less than 5ha. - more than 5ha.	On farm / Off farm On farm / Off farm On farm / Off farm	Minimum Medium High	Rectifiable Rectifiable Rectifiable
GAEC 2	In areas prone to wind erosion you must take steps to reduce the risk of soil loss in spring by maintaining crop cover, using coarse seedbeds, shelter belts or nurse crops, or use other appropriate measures with an equivalent effect.	Wind erosion identified no steps taken to reduce soil loss: - up to 0.5ha. - more than 0.5 ha but less than 5ha. - more than 5ha.	On farm / Off farm On farm / Off farm On farm / Off farm	Minimum Medium High	Rectifiable Rectifiable Rectifiable
GAEC 3	On sites where capping is a problem you must form a coarse seedbed or break any cap that forms to avoid erosion.	Capping identified but no remedial action taken: - up to 0.5ha. - more than 0.5 ha but less than 5ha. - more than 5ha.	On farm / Off farm On farm / Off farm On farm / Off farm	Minimum Medium High	Rectifiable Rectifiable Rectifiable

**Annex 2 cont'd**

GAEC Measure	GAEC Measure Requirements	Definition – Description and Measurement of the Extent of non-compliance	Extent – On farm / Off farm	Severity – Minimum / Medium / High	Permanence – Rectifiable (minor) / Rectifiable / Permanent
<p><b>GAEC 4</b></p>	<p>Prevent erosion of land, particularly, banks of watercourses, watering points and feeding areas from overgrazing, heavy trampling or heavy poaching by livestock.</p> <p>Where this occurs reduce stock until the land has recovered. All problems should be rectified at any time during the next growing season after the period that the problem has occurred.</p> <p>This measure does not apply to areas within 10m of a gateway and 3m of farm tracks necessarily used during wet-periods.</p>	<p>Erosion caused by livestock from overgrazing, heavy trampling or heavy poaching:</p> <ul style="list-style-type: none"> <li>- up to 0.5ha.</li> <li>- more than 0.5 ha but less than 5ha.</li> <li>- more than 5ha.</li> </ul>	<p>On farm / Off farm</p> <p>On farm / Off farm</p> <p>On farm / Off farm</p>	<p>Minimum</p> <p>Medium</p> <p>High</p>	<p>Rectifiable</p> <p>Rectifiable</p> <p>Rectifiable</p>
<p><b>GAEC 5</b></p>	<p>Maintain functional field drainage systems, including clearing ditches, unless environmental gain is to be achieved by not maintaining field drainage systems.</p> <p>Where environmental gain is to be achieved, this must be declared on the IACS return.</p>	<p>Erosion due to field drainage systems not being maintained:</p> <ul style="list-style-type: none"> <li>- one field.</li> <li>- more than one field but less than 5 fields.</li> <li>- more than 5 fields.</li> </ul>	<p>On farm / Off farm</p> <p>On farm / Off farm</p> <p>On farm / Off farm</p>	<p>Minimum</p> <p>Medium</p> <p>High</p>	<p>Rectifiable</p> <p>Rectifiable</p> <p>Rectifiable</p>

**Annex 2 cont'd**

GAEC Measure	GAEC Measure Requirements	Definition – Description and Measurement of the Extent of non-compliance	Extent – On farm / Off farm	Severity – Minimum / Medium / High	Permanence – Rectifiable (minor) / Rectifiable / Permanent
GAEC 6	Follow the latest edition of the Muirburn Code.	<p>Soil erosion due to non-compliance with the Muirburn code:</p> <ul style="list-style-type: none"> <li>- burning unsuitable areas e.g. on shallow soils.</li> <li>- burning in unsuitable weather conditions e.g. windy conditions.</li> <li>- out of control fire</li> </ul>	<p>On farm / Off farm</p>	<p>Minimum</p> <p>Medium</p>	<p>Rectifiable</p> <p>Rectifiable</p>
GAEC 7	<p>On arable land:</p> <p>(i) Use suitable break crops in an arable rotation; or</p> <p>(ii) Optimise the use of organic materials by basing rates of application on soil and crop needs. Where break crops are not used, a record should be kept for 5 years of organic materials and quantities applied to arable land.</p>	<p>Use of organic materials - no records.</p> <p>No break crop or use of organic materials.</p>	<p>On farm</p> <p>On farm</p>	<p>Minimum</p> <p>High</p>	<p>Rectifiable</p> <p>Rectifiable</p>
GAEC 8	<p>Incorporate livestock manures within 2 weeks after spreading on stubbles.</p> <p>In areas prone to wind erosion, incorporation of livestock manures can be delayed.</p>	<p>Manure not incorporated within 2 weeks:</p> <ul style="list-style-type: none"> <li>- up to 0.5ha.</li> <li>- more than 0.5ha but less than 5ha.</li> <li>- more than 5ha.</li> </ul>	<p>On farm</p> <p>On farm</p> <p>On farm</p>	<p>Minimum</p> <p>Medium</p> <p>High</p>	<p>Rectifiable</p> <p>Rectifiable</p> <p>Rectifiable</p>

**Annex 2 cont'd**

GAEC Measure	GAEC Measure Requirements	Definition – Description and Measurement of the Extent of non-compliance	Extent – On farm / Off farm	Severity – Minimum / Medium / High	Permanence – Rectifiable (minor) / Rectifiable / Permanent
GAEC 9	Do not carry out any cultivations if water is standing on the surface or the soil is saturated.	Cultivations carried out on saturated soils: - up to 0.5ha. - more than 0.5 ha but less than 5ha. - more than 5ha.	On farm  On farm  On farm	Minimum  Medium  High	Rectifiable  Rectifiable  Rectifiable
GAEC 10	i) Avoid undergrazing at a level where the growth of scrub or coarse vegetation is detrimental to the environmental or agricultural interest in the field. ii) Where undergrazing is identified, a management regime to be observed on that site must be approved by SEERAD.	Undergrazing to the detriment of the environmental or agricultural interest in the field: - Undergrazing up to 2% of the holding. - Undergrazing more than 2% but less than 10% of the holding. - Undergrazing more than 10% but less than 20% of the holding. - Undergrazing more than 20% of the holding.	On farm  On farm  On farm  On farm	Minimum  Minimum  Medium  High	Rectifiable (minor)  Rectifiable  Rectifiable  Rectifiable

Annex 2 cont'd

GAEC Measure	GAEC Measure Requirements	Definition – Description and Measurement of the Extent of non-compliance	Extent – On farm / Off farm	Severity – Minimum / Medium / High	Permanence – Rectifiable (minor) / Rectifiable / Permanent
GAEC 10 cont'd		<p>Management regime not followed by end of next growing season:</p> <ul style="list-style-type: none"> <li>- agreed stocking not met by up to 5%.</li> <li>- agreed stocking not met by more than 5% but less than 25%.</li> <li>- agreed stocking not met by more than 25% but less than 50%.</li> <li>- agreed stocking not met by more than 50%.</li> <li>- topping not carried out</li> </ul>	<p>On farm</p> <p>On farm</p> <p>On farm</p> <p>On farm</p> <p>On farm</p>	<p>Minimum</p> <p>Minimum</p> <p>Medium</p> <p>High</p> <p>High</p>	<p>Rectifiable (minor)</p> <p>Rectifiable</p> <p>Rectifiable</p> <p>Rectifiable</p> <p>Rectifiable</p>
GAEC 11	<p>i) Avoid overgrazing with livestock and other species in such numbers as to adversely affect the growth; structure; or species composition of vegetation on the land. The only exception to this is where vegetation is normally grazed to destruction to a significant degree (i.e. land that is to be cultivated immediately after grazing by livestock, which remove the entire crop).</p>	<p>Overgrazing adversely affecting the growth, structure or species composition of the vegetation on the land.</p> <p><u>Semi-natural habitats</u>  a) Overgrazing up to 2% of the holding.</p>	<p>On farm</p>	<p>Minimum</p>	<p>Rectifiable (minor)</p>

**Annex 2 cont'd**

GAEC Measure	GAEC Measure Requirements	Definition – Description and Measurement of the Extent of non-compliance	Extent – On farm / Off farm	Severity – Minimum / Medium / High	Permanence – Rectifiable (minor) / Rectifiable / Permanent
GAEC 11 cont'd	<p>ii) Where overgrazing is as a result of an unexpected and unpredictable incursion of wild deer or geese and it can be shown that appropriate action had been taken to deal with the problem (including for deer, taking advice from the Deer Commission for Scotland where significant), then you will not be held accountable for overgrazing caused as a result of this infringement.</p> <p>iii) Where overgrazing is attributable to rabbits you will be expected to provide evidence of use of available control methods.</p> <p>iv) Where overgrazing is identified, a management regime to be observed on that site must be approved by SEERAD.</p>	<p>b) Overgrazing more than 2% but less than 10% of the holding.</p> <p>c) Overgrazing more than 10% but less than 20% of the holding.</p> <p>d) Overgrazing more than 20% of the holding.</p> <p>Management regime not followed:</p> <ul style="list-style-type: none"> <li>- agreed stocking exceeded by up to 5%.</li> <li>- agreed stocking exceeded by more than 5 but less than 25%.</li> <li>- agreed stocking exceeded by more than 25 but less than 50%.</li> <li>- agreed stocking exceeded by more than 50%.</li> </ul>	<p>On farm</p> <p>On farm</p> <p>On farm</p> <p>On farm</p> <p>On farm</p> <p>On farm</p> <p>On farm</p> <p>On farm</p>	<p>Minimum</p> <p>Medium</p> <p>High</p> <p>Minimum</p> <p>Minimum</p> <p>Medium</p> <p>High</p>	<p>Rectifiable</p> <p>Rectifiable</p> <p>Rectifiable</p> <p>Rectifiable (minor)</p> <p>Rectifiable</p> <p>Rectifiable</p> <p>Rectifiable</p> <p>Rectifiable</p>

Annex 2 cont'd

GAEC Measure	GAEC Measure Requirements	Definition – Description and Measurement of the Extent of non-compliance	Extent – On farm / Off farm	Severity – Minimum / Medium / High	Permanence – Rectifiable (minor) / Rectifiable / Permanent
GAEC 12	Any proposal to plough up pasture of high environmental or archaeological value e.g. species-rich grassland, machair habitats, pastoral woodland and heather moorland will require the consent of the relevant authority (e.g. SNH for land in SSSIs, SEERAD for land in an agri-environment agreement) or approval under the Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (Scotland) Regulations 2002 (SSI 2002/6).	Pasture of high environmental/archaeological value has been ploughed up: - up to 0.5ha. - more than 0.5 ha but less than 5ha. - more than 5ha.	On farm  On farm  On farm	Minimum  Medium  High	Rectifiable  Rectifiable  Rectifiable
GAEC 13	To ensure the protection of rough grazings and other semi-natural areas you must not undertake new drainage works, ploughing, clearing, levelling, re-seeding or cultivating unless approved under the Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (Scotland) Regulations 2002 (SSI 2002/6).	Damaging works have been carried out on rough grazing and other semi-natural areas: - up to 0.5ha. - more than 0.5 ha but less than 5ha. - more than 5ha.	On farm  On farm  On farm	Minimum  Medium  High	Rectifiable  Rectifiable  Rectifiable
GAEC 14	To ensure the protection of rough grazings and other semi-natural areas, pesticides, lime or fertiliser must not be applied except in certain cases specified below or as approved under the Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (Scotland) Regulations 2002 (SSI 2002/6).	Pesticides, lime or fertiliser applied to rough grazing and semi-natural areas: - up to 0.5ha. - more than 0.5 ha but less than 5ha.	On farm  On farm	Minimum  Medium	Rectifiable  Rectifiable

**Annex 2 cont'd**

GAEC Measure	GAEC Measure Requirements	Definition – Description and Measurement of the Extent of non-compliance	Extent – On farm / Off farm	Severity – Minimum / Medium / High	Permanence – Rectifiable (minor) / Rectifiable / Permanent
GAEC 14 cont'd		- more than 5ha.	On farm	High	Rectifiable
GAEC 15	<p>i) Do not damage, nor without the prior written agreement of SEERAD and/or other statutory bodies remove or destroy any of the following boundary features: drystone or flagstone dykes, turf and stone-faced banks, walls, hedges and hedgerow trees, boundary trees and watercourses.</p> <p>ii) No hedge trimming is permitted between 1 March and 31 July except for roadside hedge trimming, required in the interest of road safety.</p> <p>iii) Written approval is not required where it is proposed to widen field entrances to enable access for livestock or farm machinery.</p>	<p>Damage to drystone or flagstone dykes, turf and stone-faced banks, walls, hedges and hedgerow trees, boundary trees and watercourses.</p> <p>Removal of poor quality dykes, turf and stone-faced banks, walls or hedges</p> <p>Removal of good quality dykes, turf and stone-faced banks, walls or hedges</p> <p>Removal of hedgerow trees, boundary trees and watercourses.</p> <p>Hedge trimming between 1 March and 31 July</p>	On farm	Minimum	Rectifiable

GAEC Measure	GAEC Measure Requirements	Definition – Description and Measurement of the Extent of non-compliance	Extent – On farm / Off farm	Severity – Minimum / Medium / High	Permanence – Rectifiable (minor) / Rectifiable / Permanent
GAEC 16	<p>Avoid the deterioration of non-productive landscape features which are part of the agricultural unit, such as shelter belts, copses and ponds.</p> <p>Deterioration is defined as:</p> <ul style="list-style-type: none"> <li>i) Not maintaining functional stockproof fences around shelter belts and copses.</li> <li>ii) Severe poaching where feeding and/or other husbandry practices of livestock occur in copses and shelterbelts.</li> <li>iii) Failure to maintain ponds on the holding e.g. eutrophication, drainage.</li> </ul>	<p>Functional stock proof fences around shelter belts and copses have not been maintained.</p> <p>Severe poaching in copses or shelter belts.</p> <p>Eutrophication of pond</p> <p>Pond has been drained.</p>	<p>On farm</p> <p>On farm</p> <p>On farm</p> <p>On farm</p>	<p>Minimum</p> <p>Medium</p> <p>Medium</p> <p>High</p>	<p>Rectifiable</p> <p>Rectifiable</p> <p>Rectifiable</p> <p>Permanent</p>
GAEC 17	<ul style="list-style-type: none"> <li>i) Avoid altering, damaging or destroying protected elements of the historic environment. These elements are scheduled monuments, listed buildings and sites included in the Inventory of Historic Gardens and Designed Landscapes.</li> <li>ii) Monuments of national importance are scheduled under the Ancient Monuments and Archaeological Areas Act 1979. No works affecting such monuments may be carried out or permitted without the prior written consent of the Scottish Ministers (known as Scheduled Monument Consent (SMC)).</li> </ul>	<p>Damaged to Scheduled Monuments, Listed Buildings Historic Gardens and Designed Landscapes:</p> <p>- up to 20% of site/feature</p> <p>- more than 20% of the site/feature</p>	<p>On farm</p> <p>On farm</p>	<p>Minimum</p> <p>Medium</p>	<p>Permanent</p> <p>Permanent</p>

Annex 2 cont'd

GAEC Measure	GAEC Measure Requirements	Definition – Description and Measurement of the Extent of non-compliance	Extent – On farm / Off farm	Severity – Minimum / Medium / High	Permanence – Rectifiable (minor) / Rectifiable / Permanent
GAEC 17 cont'd	iii) Building of special architectural or historic interest are listed under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The alteration or demolition of such buildings requires Listed Building Consent (LBC) from the local planning authority.	Destruction of Scheduled Monuments, Listed Buildings Historic Gardens and Designed Landscapes.	On farm	High	Permanent
GAEC 18	<p>i) Avoid the encroachment of unwanted vegetation which degrades the agricultural and environmental value of the land to the extent that the land is not capable of returning to agricultural production by any time during the next growing season.</p> <p>ii) Taking the above into account, the encroachment of native species is allowed in the following instances:</p> <ul style="list-style-type: none"> <li>• Recolonisation of trees across the boundary line from native woodland.</li> <li>• Recolonisation of scrub species such as gorse, birch and juniper as part of a mosaic of habitats.</li> <li>• Reversion of land to wet grassland or wetland.</li> </ul>	<p>Land infested with unwanted vegetation and not capable of returning to agricultural production by any time during the next growing season:</p> <ul style="list-style-type: none"> <li>- up to 20% of a field.</li> <li>- more than 20% but less than 50% of the field.</li> <li>- more than 50% of the field.</li> </ul>	<p>On farm</p> <p>On farm</p> <p>On farm</p>	<p>Minimum</p> <p>Medium</p> <p>High</p>	<p>Rectifiable</p> <p>Rectifiable</p> <p>Rectifiable</p>

## SMR 1: Conservation of Wild Birds – Assessing Non-Compliance

Requirement	Definition - Description and measurement of the extent of non-compliance	Extent - On farm / Off farm	Severity - Minimum / Medium / High	Permanence - Rectifiable (minor) / Rectifiable / Permanent
<p><u>In relation to Special Protection Area (SPA) under the Birds Directive, you must comply with the 1994 Habitats Regulations including:</u></p> <p>a) Notify Scottish Natural Heritage (SNH) of proposals to carry out any operation likely to damage the protected interest of the SPA. You must also obtain SNH's written consent before commencing these operations, unless they are specifically permitted by the terms of a management agreement. Consent is not required where planning permission has already been obtained or in an emergency. In an emergency situation you must notify SNH as soon as possible after the event.</p> <p>b) Where a Special Nature Conservation Order (or Nature Conservation Order under the Wildlife and Countryside Act 1981 as amended by the Nature Conservation (Scotland) 2004 Act) applies, notify SNH of proposals to carry out any specified operation, and obtain consent before commencing that operation, unless covered by the terms of a management agreement.</p> <p>c) Comply with any other management order or restoration order that is relevant to the purpose of the SPA.</p> <p>d) Comply with the terms of any management agreement entered into with SNH that relates to the purpose of the SPA.</p>	<p>No notice of an ORC given, consent refused by SNH, terms of consent not adhered to, or a recurrence of previous non-compliance (NCA s.16)</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>
	<p>Failure to comply with a management agreement (National Parks and Access to the Countryside Act 1949 s.16, Countryside (Sc) Act 1967 s.49A, Countryside Act 1968 s.15)</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>
	<p>Failure to comply with a nature conservation order (NCA s.23-27).</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>
	<p>Failure to comply with any byelaw for the protection of an SSSI (NCA s.20)</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>

Requirement	Definition - Description of the extent of non-compliance	Extent - On farm / Off farm	Severity - Minimum / Medium / High	Permanence - Rectifiable (minor) / Rectifiable / Permanent
<p>e) Comply with the terms of any agri-environment agreement that relates to the purpose of the SPA. You must also comply with the terms of any restoration order.</p>	<p>Failure to comply with a land management order (NCA ss.29-36)</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>
<p><u>You must not:</u> Intentionally or recklessly damage any natural feature specified in a SSSI notification, which is relevant to the purpose of the SPA.</p>	<p>Intentional or reckless damage or destruction of the special interest or continuation of some form of non-compliance already occurring (NCA s.19)</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>
<p><u>On any land, you must not:</u> a) Intentionally or recklessly kill, injure or take any wild bird; take, damage, destroy or otherwise interfere with any nest habitually used by any wild bird included in Schedule A1 of the Nature Conservation (Scotland) Act 2004, obstruct or prevent any wild bird from using its nest, take or prevent any wild bird from using its nest, possessing any live or dead wild birds or anything derived from such a bird, take or keep any egg of a wild bird; or the intentional or reckless disturbance of certain birds (listed in schedule 1 to the Wildlife and Countryside Act 1981) while they are nesting (including disturbance of dependant young).</p>	<p>Failure to comply with a restoration order (NCA S40)</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>
<p>b) Kill or take certain huntable birds during the close season for that bird species. The sale or purchase of game birds after 10 days from the end of the open season for the bird in question is also prohibited.</p>	<p>Failure to comply with a court order in connection with NCA s.12(2) or s.15</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>
<p>Use the prohibited means of killing or taking wild birds as set out in section 5 of the Wildlife and Countryside Act 1981 as amended by the Nature Conservation (Scotland) Act 2004.</p>	<p>Damaging or destroying signs put up by SNH (NCA s.41)</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>

**Annex 3 cont'd**

Requirement	Definition - Description of the extent of non-compliance	Extent - On farm / Off farm	Severity - Minimum / Medium / High	Permanence - Rectifiable (minor) / Rectifiable / Permanent
	<p>Obstructing a person authorised by SNH for the purposes specified in NCA s.44(1)</p> <p>Any offence involving the hunting, killing, taking, sale or possession of a bird under Part I of the WCA as amended by the NCA. (These offences are normally dealt with by the police and the procurator fiscal, but if a SEERAD or SNH inspector has reasonable evidence that an offence has been committed then it should be recorded as a breach and also reported to the police.</p>	<p>On farm / Off farm</p> <p>On farm / Off farm</p>	<p>Minimum / Medium / High</p> <p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p> <p>Rectifiable (minor) / Rectifiable / Permanent</p>
	<p>Possession of any pesticide for the purpose of using it not in accordance with the regulations under the Food and Environmental Protection Act 1985 or the Biocidal Products Regulations 2001 (WCA s.15A amended NCA)</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>

**SMR 2: Groundwater Regulations 1998**

**Annex 4**

Requirement	Definition – Description and Measurement of the extent of non-compliance	Extent – On farm/ Off farm	Severity – Minimum/ Medium/ High	Permanence – Rectifiable (minor)/ Rectifiable/ Permanent
<p>Under the Groundwater Regulations 1998 in Scotland the farmer or their contractor must:</p> <p>Ensure that an authorisation is in place to allow or carry out a disposal of List I or List II substances, such as waste sheep dip and/or pesticide washings to land;</p> <p>Comply with the conditions of any authorisation granted under the Regulations by SEPA.</p>	<p>The farmer has carried out or permitted unauthorised disposal of waste sheep dip or pesticide washings or other list I substances.</p> <p>The farmer has carried out or permitted unauthorised disposal of other List II substances.</p>	<p>Can have an on-farm or off-farm effect.</p> <p>Can have an on-farm or off-farm effect</p>	<p><b>Minimum</b> – site would have been authorised as suitable.  <b>Medium</b> – site suitability uncertain.  <b>High</b> – site unsuitable for disposal.</p> <p><b>Minimum (WL)</b> – SEPA determine that the risk of pollution of groundwater is low.  <b>Minimum</b> – SEPA determine that the risk of pollution to groundwater is likely.</p>	<p>In most cases: <b>Rectifiable</b></p> <p>In extreme cases: <b>Permanent</b></p> <p>Low risk of pollution: <b>Rectifiable (Minor)</b></p> <p>In most cases: <b>Rectifiable</b></p> <p>In extreme cases: <b>Permanent</b></p>
<p>Prevent an indirect discharge of List I or pollution of groundwater by an indirect discharge of List II substances from any non-disposal activity carried in or on the ground.</p>	<p>The farmer has carried out or permitted an activity that causes entry of List I or pollution by indirect discharge of List II substance.</p> <p>The farmer has failed to comply with the conditions of a groundwater authorisation.</p>	<p>Can have an on-farm or off-farm effect</p>	<p><b>Minimum</b> – SEPA description of minor pollution incident or discrepancies in record keeping, a technical issue (e.g. non-payment of fee) or breach can be accommodated in a variation to the groundwater authorisation.  <b>Medium</b> – SEPA description of significant pollution incident.  <b>High</b> – SEPA description of major pollution incident.</p>	<p>Discrepancies in record keeping. Technical issue (e.g. non-payment of fee). Breach can be accommodated in a variation to the groundwater authorisation: <b>Rectifiable (minor)</b>.</p> <p>In most other cases: <b>Rectifiable</b>.</p> <p>In extreme cases: <b>Permanent</b></p>
<p>Comply with the conditions of any Notice served under the Regulations.</p>	<p>The farmer has failed to comply with the conditions of a Notice served under the Groundwater Regulations for List I and/or List II substances.</p>	<p>Can have an on-farm or off-farm effect</p>	<p><b>Minimum</b> – SEPA description of minor pollution.  <b>Medium</b> - SEPA description of significant pollution.  <b>High</b> - SEPA description of major pollution</p> <p><b>Minimum</b> – SEPA description of minor pollution.  <b>Medium</b> - SEPA description of significant pollution.  <b>High</b> - SEPA description of major pollution</p>	<p>In most cases: <b>Rectifiable</b>.</p> <p>In extreme cases: <b>Permanent</b>.</p> <p>In most cases: <b>Rectifiable</b>.</p> <p>In extreme cases: <b>Permanent</b></p>

## SMR 3: Sewage Sludge Regulations – Assessing Non-Compliance

Requirement	Definition – Description and Measurement of the extent of non-compliance	Extent – On farm/ Off farm	Severity – Minimum/ Medium/ High	Permanence – Rectifiable (minor)/ Rectifiable/ Permanent
<p>The relevant domestic legislation on sewage sludge is due to be amended, with new regulations expected by 2006. Any changes will be published. Until then, the requirements are set out below.</p> <p>The farmer must ensure that he/she only uses sludge, or allows it to be used, on agricultural land if the following requirements are met, in that the:</p> <ul style="list-style-type: none"> <li>• Sludge is tested in accordance with Schedule 1 of the Sludge (Use in Agriculture) Regulations 1989 (as amended) ('the Sludge Regulations');</li> <li>• Soil on the land is tested or assessed in accordance with Schedule 2 of the Sludge Regulations;</li> <li>• Average annual rate of addition to the land by means of the sludge of any elements in the sludge table in the Sludge Regulations must not exceed the specified limit.</li> <li>• Concentration in the soil of any of the elements listed in the soil table must not exceed the specified limit either at the time of using sludge or as a result of applying it;</li> </ul>	<p>Sludge has been applied in excess of crop requirements.</p> <p>Sludge has been used in such a way that it damages the quality of the soil.</p>	<p>Can have an on-farm or off-farm effect</p> <p>Can have an on-farm or off-farm effect</p>	<p><b>Minimum</b> 5% or less; Warning letter for first offence unless off-farm impact is observed.</p> <p>Over 5 and up to 20% in excess of crop requirement.</p> <p><b>Medium</b> Over 20 and up to 30% of crop requirement.</p> <p><b>High</b> Over 30% in excess of crop requirement.</p> <p><b>Medium</b> Up to 10% increase in soil heavy metal concentration above the levels specified in Schedule 2 of the Sludge Regulations.</p> <p><b>High</b> Increase of 10% or more in soil heavy metal concentration above the levels specified in Schedule 2 of the Sludge Regulations</p> <p>And/or :- Sludge is applied to land where the pH is less than 5.0</p>	<p><b>Rectifiable (minor)</b></p> <p><b>Rectifiable</b></p> <p><b>Rectifiable</b></p> <p><b>Rectifiable</b></p> <p>In most cases: <b>Rectifiable</b></p> <p>In extreme cases: <b>Permanent</b></p>

Requirement	Definition – Description and Measurement of the extent of non-compliance	Extent – On farm/ Off farm	Severity – Minimum/ Medium/ High	Permanence – Rectifiable (minor)/ Rectifiable/ Permanent
<ul style="list-style-type: none"> <li>pH value of the soil must not be less than 5; no fruit or vegetable crops, other than fruit trees, should be growing or being harvested in the soil at the time of the use;</li> <li>sludge must be used in such a way that account is taken of the nutrient needs of the plants and that the quality of the soil and of the surface and groundwater is not impaired.</li> </ul> <p>The farmer must take the required precautions (as set out below) after sludge or septic tank sludge has been used on agricultural land.</p> <ul style="list-style-type: none"> <li>Do not graze animals or harvest forage crops for three weeks from the date of the use,</li> <li>Do not harvest fruit and vegetable crops which are grown in direct contact with the soil and normally eaten raw for ten months from the date of the use.</li> <li>Where any untreated sludge has been used on land without being injected into the soil, you must, as soon as reasonably practicable afterwards, work the sludge into the soil.</li> </ul> <p>The farmer must supply information to the sludge producer as required under the Sludge Regulations.</p>	<p>Sludge has been used in such a way that the surface water is impaired.</p> <p>Sludge has been used in such a way that the ground water is impaired.</p> <p>Failure to observe cropping and grazing restrictions.</p>	<p>Can have an on-farm or off-farm effect</p> <p>Can have an on-farm or off-farm effect</p> <p>Can have an on-farm or off-farm effect</p>	<p><b>Minimum</b> SEPA description of minor pollution incident.</p> <p><b>Medium</b> SEPA description of medium pollution incident.</p> <p><b>High</b> SEPA description of major pollution incident.</p> <p><b>Minimum</b> SEPA description of minor pollution incident.</p> <p><b>Medium</b> SEPA description of medium pollution incident.</p> <p><b>High</b> SEPA description of major pollution incident.</p> <p><b>Medium</b> Animal health risks but limited or no implications for human health.</p> <p><b>High</b> Human health risks and/or human and animal health risks.</p>	<p><b>Rectifiable</b></p> <p><b>Rectifiable</b></p> <p>In most cases: <b>Rectifiable</b></p> <p>In extreme cases: <b>Permanent</b></p> <p><b>Rectifiable</b></p>

Requirement	Definition – Description and Measurement of the extent of non-compliance	Extent – On farm/ Off farm	Severity – Minimum/ Medium/ High	Permanence – Rectifiable (minor)/ Rectifiable/ Permanent
<p>If the farmer is the sludge producer, for example by emptying a septic tank(s), then he must fully comply with the Sludge Regulations.</p>	<p>Failure to incorporate untreated sludge into the soil as soon as reasonably practicable.</p>	<p>Can have an on-farm or off-farm effect</p>	<p><b>Minimum</b> No human or animal health risks and/or SEPA description of minor pollution incident.</p> <p><b>Medium</b> Animal health risks but limited or no implications for human health and/or SEPA description of medium pollution incident.</p> <p><b>High</b> Human health risks and/or human and animal health risks and/or SEPA description of major pollution incident.</p>	<p><b>Rectifiable</b></p>
	<p>Failure of farmer to supply relevant information to sludge producer.</p>	<p>Limited to an on-farm effect.</p>	<p><b>Minimum (Warning letter)</b> Information supplied but incomplete – minor omissions only.</p> <p><b>Medium</b> Information incomplete – Major omissions or incorrect information supplied.</p> <p><b>High</b> Information not supplied.</p>	<p><b>Rectifiable (minor)</b></p> <p><b>Rectifiable</b></p> <p><b>Rectifiable</b></p>

## SMR 4: Nitrate Vulnerable Zones

Requirement	Definition - Description and measurement of the extent of non-compliance	Extent - On farm / Off farm	Severity - Minimum / Medium / High	Permanence - Rectifiable (minor) / Rectifiable / Permanent
<p>On land that is located within an NVZ, you must comply with the NVZ Action Programme Measures.</p> <p>1.1 Record keeping</p> <p>Keep farm records on details of cropping, livestock numbers, use of inorganic (chemical) nitrogen fertiliser and organic manure, for a minimum of five years after the date of last entry. A fertiliser and manure plan must be prepared and implemented each year.</p>	<p>Records incomplete</p> <p>No reconcilable records</p>	<p>Limited to an on-farm effect</p> <p>Limited to an on-farm effect</p>	<p><b>Minimum</b> (Warning letter) Minor arithmetical errors but full assessment possible.</p> <p><b>Minimum</b> Minor omissions in record keeping but full assessment can be made.</p> <p><b>Medium</b> Only sufficient information to allow a partial assessment.</p> <p><b>High</b> Inspector unable to make an assessment</p>	<p><b>Rectifiable (Minor)</b></p> <p><b>Rectifiable</b></p> <p><b>Rectifiable</b></p>
<p>2. <u>Summary of the NVZ Action Programme Measures</u></p> <p>2.1 Whole farm organic manure loading</p> <p>You must limit the organic manure loading averaged over the whole farmed area each year (beginning on 19 December) to:</p> <p>250kg total Nitrogen (N) per ha for grassland in any NVZ;</p> <p>170kg total N per ha for non-grass crops in an NVZ and</p> <p>These limits include N from manure deposited by animals while grazing.</p>	<p>Whole farm limit for organic N breached</p>	<p>Can have an on-farm or off-farm effect</p>	<p><b>Minimum</b> Whole farm breached by 5% or less</p> <p><b>High</b> Whole farm breached by &gt;5%</p>	<p><b>Rectifiable</b></p> <p><b>Rectifiable</b></p>

Requirement	Definition - Description and measurement of the extent of non-compliance	Extent - On farm / Off farm	Severity - Minimum / Medium / High	Permanence - Rectifiable (minor) / Rectifiable / Permanent
<p><b>2.2</b> Field organic manure limit</p> <p>Applications of organic manure to individual fields must not exceed 250 kg per ha of total N in any 12-month period. This limit does NOT include manures deposited by grazing animals.</p>	<p>Level of Organic manure in excess of field based limit</p>	<p>Can have an on-farm or off-farm effect</p>	<p><b>Minimum</b> 5% or less on any field - warning letter for first offence unless off-farm impact is observed</p> <p><b>Minimum</b> Over 5 and up to 20% on any field</p> <p><b>Medium</b> Over 20 and up to 30% on any field</p> <p><b>High</b> Over 30% on any field</p>	<p><b>Rectifiable (minor)</b></p> <p><b>Rectifiable</b></p>
<p><b>2.3</b> Crop requirement limit</p> <p>Do not apply more N fertiliser than a crop/grassland requires, taking account of crop uptake, soil N supply, previous crop, excess winter rainfall, and available N from organic manures.</p>	<p>Total Level of Nitrogen fertiliser in excess of crop requirements Whole farm limit for organic N breached</p>	<p>Can have an on-farm or off-farm effect</p>	<p><b>Minimum</b> Whole farm limit breached by 5% or less on any crop in any field - warning letter for first offence unless off-farm impact is observed</p> <p><b>Minimum</b> Over 5 and up to 20% on any crop in any field in excess of crop requirement</p> <p><b>Medium</b> Over 20 and up to 30% on any crop in any field in excess of crop requirement</p> <p><b>High</b> Over 30 % on any crop in any field in excess of crop requirement</p>	<p><b>Rectifiable (minor)</b></p> <p><b>Rectifiable</b></p>

Requirement	Definition - Description and measurement of the extent of non-compliance	Extent - On farm / Off farm	Severity - Minimum / Medium / High	Permanence - Rectifiable (minor) / Rectifiable / Permanent
<p><b>2.4 Closed periods</b></p> <p>Do not apply N during the following periods.</p> <p><b>Sandy or shallow soils:</b>  <b>Organic Manures with high available N (slurry, poultry manure or liquid digested sewage sludge)</b></p> <p>1 Oct – 1 Nov ( grassland or autumn sown crop)  1 Aug – 1 Nov (other land)</p> <p><b>All soil types – chemical nitrogen fertilisers</b>  <b>Unless there is a specific crop requirement to spread fertiliser</b></p> <p><b>Moray, Aberdeenshire, Banff &amp; Buchan NVZ</b></p> <p>1 Sept – 20 Feb – other land  15 Sept – 20 Feb – Grassland</p> <p><b>All other NVZs</b></p> <p>1 Sept – 15 Feb – other land  15 Sept – 15 Feb – Grassland</p>	<p>Closed period for certain types of organic manure breached (Sandy and/or shallow soils only)</p>	<p>Can have an on-farm or off-farm effect</p>	<p><b>High</b></p>	<p><b>Rectifiable</b></p>
<p><b>Spreading controls:</b></p> <p><b>You must:</b></p> <p><b>Spread N fertiliser and organic manures evenly and accurately.</b></p>	<p>Closed period for chemical fertiliser breached and agronomic justification not demonstrated.</p>	<p>Can have an on-farm or off-farm effect</p>	<p><b>High</b></p>	<p><b>Rectifiable</b></p>
	<p>Nitrogen fertiliser applied to steeply sloping fields, where likely to cause nitrate pollution</p>	<p>Can have an on-farm or off-farm effect</p>	<p><b>Medium or High</b>  Assessed according to the consequences of the non compliance</p>	<p><b>Rectifiable</b></p>
	<p>Nitrogen fertilisers not applied to land in an accurate and uniform manner</p>	<p>Can have an on-farm or off-farm effect</p>	<p><b>Minimum</b></p>	<p><b>Rectifiable</b></p>

Requirement	Definition - Description and measurement of the extent of non-compliance	Extent - On farm / Off farm	Severity - Minimum / Medium / High	Permanence - Rectifiable (minor) / Rectifiable / Permanent
<p><b>You must not:</b></p> <p><b>apply any materials containing N when the ground is waterlogged, flooded, frozen hard or snow covered; Uncropped areas, hedges and watercourses including ditches</b></p> <p><b>apply N fertiliser or organic manures to steeply sloping fields;</b></p> <p><b>apply N fertiliser in a way that contaminates watercourses; or</b></p> <p><b>apply organic manures within 10 metres of watercourses.</b></p>	<p>Nitrogen fertiliser applied to frozen, waterlogged or snow covered soil/land and uncropped areas inc. ditches &amp; hedgerows</p> <p>Inappropriate incorporation of vegetable waste</p> <p>Chemical fertiliser applied to land in a location or manner which directly contaminates surface water</p> <p>Organic manure applied to land within 10m of surface water or 50m from boreholes</p>	<p>Can have an on-farm or off-farm effect</p> <p>Can have an on-farm or off-farm effect</p> <p>Can have an on-farm or off-farm effect</p> <p>Can have an on-farm or off-farm effect</p>	<p><b>High</b></p> <p><b>High</b></p> <p><b>High</b></p> <p><b>High</b></p>	<p><b>Rectifiable</b></p> <p><b>Rectifiable</b></p> <p><b>Rectifiable</b></p> <p><b>Rectifiable</b></p>
<p><b>2.5 Storage</b></p> <p><b>There must be sufficient slurry storage facilities (or alternative arrangements) to comply with the closed period during which spreading of certain manures on to certain soil types is prohibited.</b></p>	<p>Insufficient livestock manure storage to exceed any applicable close period (and no alternative identified that would not cause harm to the environment)</p>	<p>Can have an on-farm or off-farm effect</p>	<p><b>High</b></p>	<p><b>Rectifiable</b></p>

## SMR 5: Conservation of Flora and Fauna – Assessing Non-Compliance

Requirement	Definition - Description and measurement of the extent of non-compliance	Extent - On farm / Off farm	Severity - Minimum / Medium / High	Permanence - Rectifiable (minor) / Rectifiable / Permanent
<p><u>In relation to Special Area of Conservation (SAC) under the Habitats Directive, you must comply with the 1994 Habitats Regulations including:</u></p> <p>a) Notify SNH of proposals to carry out any operation likely to damage the protected interest of the SAC. You must also obtain SNH's written consent before commencing these operations, unless they are specifically permitted by the terms of a management agreement. Consent is not required where planning permission has already been obtained or in an emergency. However in an emergency situation you must notify SNH as soon as possible after the event.</p> <p>b) Where a Special Nature Conservation Order (or Nature Conservation Order under the Wildlife and Countryside Act 1981 as amended by the Nature Conservation (Scotland) Act 2004) applies, notify SNH of proposals to carry out any specified operation, and obtain consent before commencing that operation, unless it is specifically permitted by the terms of a management agreement. You must also comply with the terms of any restoration order.</p> <p>c) Comply with any other management order or restoration order that is relevant to the purpose of the SAC.</p> <p>d) Comply with the terms of any management agreement entered into with SNH that relates to the purpose of the SAC</p> <p>e) Comply with the terms of any agri-environment agreement that relates to the purpose of the SAC.</p>	<p>No notice of an ORC given, consent refused by SNH, terms of consent not adhered to, or a recurrence of previous non-compliance (NCA s.16)</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>
	<p>Failure to comply with a management agreement (National Parks and Access to the Countryside Act 1949 s.16, Countryside (Sc) Act 1967 s.49A, Countryside Act 1968 s.15)</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>
	<p>Failure to comply with a nature conservation order (NCA s.23-27).</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>
	<p>Failure to comply with any byelaw for the protection of an SSSI (NCA s.20)</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>

Requirement	Definition - Description and measurement of the extent of non-compliance	Extent - On farm / Off farm	Severity - Minimum / Medium / High	Permanence - Rectifiable (minor) / Rectifiable / Permanent
<p>You must not:</p> <p>a) Intentionally or recklessly destroy or damage the protected features of an SSSI that are also relevant to the purpose of the SAC, or disturb any protected animals so as to commit an offence under part 1 of the Wildlife and Countryside Act 1981 as amended by the Nature Conservation (Scotland) Act 2004.</p> <p>b) Pick, collect, cut, uproot or destroy a wild plant of a European protected species or keep, transport, sell or exchange, or offer for sale or exchange, any live or dead wild plant of a European protected species (including any part of or anything derived from such a plant).</p> <p>c) Take or kill European Protected Species.</p> <p>d) Release or allow to escape into the wild any non-native wild animal as defined, or plant or cause to grow in the wild any non-native plant.</p>	Failure to comply with a land management order (NCA ss.29-36)	On farm / Off farm	Minimum / Medium / High	Rectifiable (minor) / Rectifiable / Permanent
	Intentional or reckless damage or destruction of the special interest or continuation of some form of non-compliance already occurring (NCA s.19)	On farm / Off farm	Minimum / Medium / High	Rectifiable (minor) / Rectifiable / Permanent
	Failure to comply with a restoration order (NCA S40)	On farm / Off farm	Minimum / Medium / High	Rectifiable (minor) / Rectifiable / Permanent
	Failure to comply with a court order in connection with NCA s.12(2) or s.15	On farm / Off farm	Minimum / Medium / High	Rectifiable (minor) / Rectifiable / Permanent
	Damaging or destroying signs put up by SNH (NCA s.41)	On farm / Off farm	Minimum / Medium / High	Rectifiable (minor) / Rectifiable / Permanent

Requirement	Definition - Description and measurement of the extent of non-compliance	Extent - On farm / Off farm	Severity - Minimum / Medium / High	Permanence - Rectifiable (minor) / Rectifiable / Permanent
	<p>Obstructing a person authorised by SNH for the purposes specified in NCA s.44(1)</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>
	<p>Any offence involving the hunting, killing, taking, sale or possession of a bird under Part I of the WCA as amended by the NCA. (These offences are normally dealt with by the police and the procurator fiscal, but if a SEERAD or SNH inspector has reasonable evidence that an offence has been committed then it should be recorded as a breach and also reported to the police.</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>
	<p>Picking, collecting or uprooting a wild plant protected under EU legislation, or any evidence of it being offered for sale or exchange (Wildlife and Countryside Act 1981s.13 as amended NCA)</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>

**Annex 7 cont'd**

Requirement	Definition - Description and measurement of the extent of non-compliance	Extent - On farm / Off farm	Severity - Minimum / Medium / High	Permanence - Rectifiable (minor) / Rectifiable / Permanent
	<p>Releasing any non-native wild animal or allowing it to escape into the wild (Wildlife and Countryside Act 1981s.13 as amended NCA)</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>
	<p>Possession of any pesticide for the purpose of using it not in accordance with the regulations under the Food and Environmental Protection Act 1985 or the Biocidal Products Regulations 2001 (WCA s.15A amended NCA)</p>	<p>On farm / Off farm</p>	<p>Minimum / Medium / High</p>	<p>Rectifiable (minor) / Rectifiable / Permanent</p>

## SMR 6 - Livestock Identification and Traceability – Pigs

Requirement	Definition - Description and measurement of the extent of non-compliance	Extent - On farm / Off farm	Severity - Minimum / Medium / High	Permanence - Rectifiable (minor) / Rectifiable / Permanent
<p>The key elements of identification and tracing systems that apply specifically for cross compliance purposes are listed below. This is a summary only – the full legal requirements are set out in the appropriate legislation and guidance.</p> <p><b>PIGS: Key Elements</b></p> <p><b>Registration</b> – Your details must be registered with your local Animal Health Office and you must notify them of any changes.</p> <p><b>Identification</b> – Pigs must be properly identified in accordance with the current guidance and legislation.</p> <p><b>On Farm Records</b> – Up to date herd records must be kept with the required information, including:</p> <ul style="list-style-type: none"> <li>• The max number of pigs normally kept (updated annually)</li> <li>• Details of movements of pigs on and off your holding, including the date, the destination or origin and their identification.</li> </ul> <p>The records must be kept for at least 3 years and shown to an inspector on demand.</p> <p><b>Movement Documents</b> – must accompany pigs during movements and be sent to the Local Authority within three days of the movement</p>	<p>Applicant details not correctly registered or maintained with Animal Health Office.</p> <p>Pigs moving to another holding without a correct mark.</p> <p>Records not maintained in accordance with legal requirements.</p>	<p>On farm</p> <p>On or Off Farm depending on circumstances</p> <p>In most cases – On Farm</p> <p>In cases where there is evidence of movements on or off farm not adequately recorded – Off Farm</p>	<p><b>Medium</b> where not up to date</p> <p><b>High</b> where not registered</p> <p>Minimum, Medium or High depending on numbers involved</p> <p><b>Minimum</b> Records present but mandatory information missing e.g. max numbers not declared.</p> <p><b>Medium</b> Records present but not fully meeting the requirements e.g. Movement not recorded within 36 hours but movement can be verified.</p> <p><b>High</b> No verifiable records e.g. No register</p> <p>Minimum, Medium or High depending on numbers involved</p>	<p>Rectifiable</p> <p>Rectifiable or Permanent depending on circumstances.</p> <p>Rectifiable – if records can be corrected</p> <p>Permanent – if records cannot be corrected</p> <p>Rectifiable or Permanent depending on circumstances.</p>

## SMR 7, 8 - Livestock Identification and Traceability – Cattle

## Annex 9

Requirement	Definition - Description and measurement of the extent of non-compliance	Extent - On farm / Off farm	Severity - Minimum / Medium / High	Permanence - Rectifiable (minor) / Rectifiable / Permanent
<p>SMR 7 and SMR 8 apply to you if you keep cattle. For SMRs 7 and 8 'cattle' means all bovine animals.</p> <p>For cross compliance purposes, you do not need to do anything more than you already required to do by law for the identification and tracing of cattle. The key elements of the Cattle Tracing System which apply specifically for cross compliance purposes are listed below. This is a summary only. For a full explanation of your legal obligations, you should refer to the relevant legal provisions which are listed in Annex 12.</p> <p><u>Key elements</u>  <b>Registration</b>                      Your details must be registered with your Local Animal Health Office if you keep cattle, and you must notify them of any change of your details.</p> <p><b>Eartags</b>                      Animals born on your holding (or imported from outside the EC) must be tagged with official Defra approved eartags bearing a unique identification.</p> <p>Calves must be tagged within 20 days of birth, or before they leave the holding, if this is sooner. Dairy calves must be tagged with one eartag within 36 hours and the other within 20 days.</p> <p>Eartags must not be removed or replaced without permission. Illegible or lost tags must be replaced within 28 days.</p> <p><b>Cattle passports</b>                      An application must be made for a cattle passport within seven 7 days of a calf being tagged.</p> <p>When cattle are moved, you must ensure that they are accompanied by their cattle passports, which must be completed and signed.</p>	<p>Applicant details not correctly registered or maintained with Animal Health Office.</p> <p><b>Refer to Annex 10</b></p>	<p>On farm</p> <p><b>Refer to Annex 10</b></p>	<p><b>Medium</b>                      where not up to date  <b>High</b>                      where not registered</p> <p><b>Refer to Annex 10</b></p>	<p>Rectifiable</p> <p><b>Refer to Annex 10</b></p>

Requirement	Definition - Description and measurement of the extent of non-compliance	Extent - On farm / Off farm	Severity - Minimum / Medium / High	Permanence - Rectifiable (minor) / Rectifiable / Permanent
<p><b>Notification</b></p> <p>Births must be notified to BCMS by an application for a cattle passport within seven days of tagging.</p> <p>Deaths must be notified to BCMS within seven days (Note – animals over 24 months of age that die on holding must be tested for BSE. You must complete the death details in the passport or CoR and make sure the document remains with the animal when it is removed for testing. You do not have to inform BCMS of the 'off' farm move).</p> <p>Movements of cattle on and off a holding must be notified to BCMS within three days. (Note – if your animal moves directly from or to a market/abattoir in Scotland, all markets and almost all abattoirs will electronically transmit the 'on' and 'off' farm move to BCMS).</p> <p>On-farm registers</p> <p>Up-to-date on-farm registers must be kept with the required information, including births and deaths of cattle and movements of cattle on and off your holding. The dates of these events must also be recorded.</p> <p>For movements, the details of keepers from whom cattle have been sent and to whom cattle are consigned must be recorded.</p> <p>The register must be completed within 36 hours of a movement, within seven days of a death and within seven days of a birth in a dairy herd (or within 30 days of the birth of any other calf).</p> <p>The register must be kept for 10 years if you are still a cattle keeper, and three years in any other case from the end of the calendar year in which the last entry was made and be available to SEERAD or the local authority on request.</p>	<p>Refer to Annex 10</p>	<p>Refer to Annex 10</p>	<p>Refer to Annex 10</p>	<p>Refer to Annex 10</p>

## Cattle Penalty Calculator

Discrepancies found at inspection will result in Cattle Identification Inspection (CII) failure codes. The codes are as follows -

Code	Explanation
DB	Registered with an incorrect date of birth
DD	Animal dead and passport/COR not returned to BCMS prior to inspection
FM	Failure to report movement
ID	Dam id error (other than space or leading zero issues)
LZ	Dam id error (space or leading zero issues)
MV	Movement details incorrectly reported to CTS
NA	Documents present but animal not found
NF	Animal not found in farm records
NP	Animal found with no passport/COR
OP	Registered with an incorrect sex or breed
TG1	Post 1/1/98 animal that has lost both tags but can still be identified by other means.
TG2	Animal incorrectly tagged for age
TG3	Lost a tag but still identifiable (double or single)

Breaches of cross compliance are assessed against the following criteria –

- Intent
- Extent
- Severity
- Permanence
- Repetition

The CII errors found at inspection will automatically calculate the Severity and Extent and the following paragraphs describe how this is done.

Each CII error has been allocated a score for Cross Compliance purposes depending on its relative seriousness. An overall score is then calculated for the inspection and this determines the Severity. Each CII error has also been defined as having either an 'On Farm' or 'Off Farm' effect and this is used to determine the Extent.

The following tables show the scores, the severity bands and the extent of each CII failure code.

Severity

The scores to be applied to each individual CII error are as follows –

FM	1.0
ID	1.0
LZ	0.1
NF	1.0
MV	0.7
DB	0.7
NP	0.7
DD	0.7
NA	0.7
OP	0.4
TG1	1.0
TG2	0.4
TG3	0.0

The scores are then added to together (including multiples errors for a single animal) and divided by the number of animals and records checked during the inspection (and expressed as a percentage). The resultant figure is the overall score for the inspection and is used to determine severity as per the following table.

Score	Severity
0 - 1	Minimum*
1.01 - 10	Minimum
10.01 – 30	Medium
30 +	High

\*In certain circumstances a score of one or less will be considered in conjunction with the Permanence assessment as 'Minimum Severity – Rectifiable (minor)' – see penalty matrix at Annex 1.

**Extent**

All errors have been defined as having either an 'On Farm' or 'Off Farm' extent as follows -  
Animals that we find on your holding

Error	Extent	Comment
DB	On farm	
DD	On farm	
FM	On farm	
ID	On farm	
LZ	On farm	
MV	On farm	
NA	Off farm	If the animal has moved off farm and is not dead
NF	On farm	
NP	On farm	
OP	On farm	
TG	On farm	

Animals that were on your holding but have moved off.

<b>Error</b>	<b>Extent</b>	<b>Comment</b>
DB	Off Farm	
DD	On Farm	
FM	On Farm	
ID	Off Farm	
LZ	Off Farm	
MV	On Farm	
NA	Off Farm	
NF	On Farm	
NP	Off Farm	
OP	Off Farm	

If the inspection result includes at **least one** 'Off Farm' error then the inspection is considered to have an 'Off Farm' extent.

### **Intent and Permanence**

The inspector will assess the Intent and Permanence of any breaches found in accordance with the guidance at paragraph 205 to 209 and 214 to 215 of this leaflet.

### **Repetition**

Repeat breaches will be dealt with in accordance with paragraph 216 to 221 of this leaflet

### **Provision for Small Herds**

If an inspection consists of a check of 50 or less animals and records the severity assessment will be reduced by one category.

## SMR 8a - Livestock Identification and Traceability – Sheep &amp; Goats

Requirement	Definition - Description and measurement of the extent of non-compliance	Extent - On farm / Off farm	Severity - Minimum / Medium / High	Permanence - Rectifiable (minor)/ Rectifiable / Permanent
<p>For cross compliance purposes, you do not need to do anything more than you are already required to do by law for identification and tracing of sheep and goats. The key elements of the tracing system which apply specifically for cross compliance purposes are listed below. This is a summary only. For a full explanation of your legal obligations, you should refer to the relevant legal provisions</p>	<p><b>Registration</b> Applicant details not correctly registered or maintained with competent authority (Animal Health Office)</p>	<p>Limited to an on-farm effect</p>	<p><b>Medium</b> Where not up to date</p> <p><b>High</b> If not registered</p>	<p><b>Rectifiable</b></p>
<p><b>Key elements</b></p> <p><b>Registration</b></p> <p>Your details must be registered with your Local Animal Health Office if you keep sheep or goats, and you must notify them of any change of your details.</p>	<p><b>Identification</b> Sheep and goats born before 9 July 2005 not marked in accordance with Commission Regulation 92/102.</p>	<p><b>On farm</b> – if the animal is still on farm</p> <p><b>Off farm</b> – where there is evidence of movements off farm without tags/tattoos</p>	<p><b>Minimum</b> Up to an including 5 animals or 10% of animals inspected (whichever is the greater) not marked correctly.</p> <p><b>Medium</b> Between 5 and 15 animals or 10% of animals inspected (whichever is the greater) not marked correctly.</p> <p><b>High</b> More than 15 animals or 30% of animals (whichever is greater) not marked correctly</p>	<p><b>Rectifiable</b></p>
<p><b>Identification</b></p> <p>Sheep and goats must be correctly identified in accordance with guidance issued by SEERAD.</p> <p>Identification must not be removed or replaced without permission unless it is lost, illegible or removed for welfare reasons. You must also ensure that you apply the appropriate replacement identification, as required.</p>	<p><b>Identification</b> Sheep and goats born before 9 July 2005 with illegible tags/tattoos or lost tags or tags removed for welfare purposes and not replaced as required.</p>	<p><b>On farm</b></p>	<p><b>Minimum</b> Up to an including 10 animals or 15% of animals inspected (whichever is the greater) with illegible/lost tags and no provision made for replacement.</p> <p><b>Medium</b> 11 to 20 animals or 20% of animals inspected (whichever is the greater) with illegible/lost tags and no provision made for replacement.</p> <p><b>High</b> More than 20 animals or 30% of animals inspected (whichever is greater) with illegible/lost tags and no provision made for replacement.</p>	<p><b>Rectifiable</b></p>

Requirement	Definition - Description and measurement of the extent of non-compliance	Extent - On farm / Off farm	Severity - Minimum / Medium / High	Permanence - Rectifiable (minor)/ Rectifiable / Permanent
<p><b>On-farm records</b></p> <p>Up to date on-farm records must be kept with the required information as specified in SEERAD guidance.</p> <p>The on farm records must be kept for at least six years and shown to an inspector on demand.</p> <p><b>Movement documents and reporting of moves to the database</b></p> <p>Correctly completed movement documents must accompany sheep and goats during movements.</p> <p>Moves must be notified to the Scottish Animal Movement Unit within 3 days of the movement.</p> <p>Movement documents must be retained for a period of 3 years after the date of the movement.</p>	<p><b>Identification</b></p> <p>Sheep and goats born on or after 9 July not tagged in accordance with requirements of Commission Regulation 21/2004.</p> <p><b>Identification</b></p> <p>Sheep and goats born on or after 9 July with illegible or lost tags or tags removed for welfare purposes and not replaced as required.</p> <p><b>On-Farm Records</b></p> <p>Records not maintained in accordance with legal requirements.</p> <p><b>Movements</b></p> <p>Failure to use or incorrect use of movement documents. Failure to retain movement documents. Failure to report moves to the database.</p>	<p><b>On Farm</b> - if the animal is still on farm</p> <p><b>Off Farm</b> – where there is evidence of movements off farm without tags.</p> <p><b>On Farm</b></p> <p>In most cases: <b>On Farm</b></p> <p>In cases where there is evidence of movements on or off farm not adequately recorded: <b>Off Farm</b></p> <p><b>On or Off Farm</b> – depending on circumstances.</p>	<p><b>Minimum</b></p> <p>Up to and including 5 animals or 10% of animals inspected (which ever is the greater) not tagged correctly.</p> <p><b>Medium</b></p> <p>Between 5 and 15 animals or 10% of animals inspected, (which ever is the greater) not tagged correctly.</p> <p><b>High</b></p> <p>More than 15 animals or 30% of animals (which ever is greater) not tagged correctly.</p> <p><b>Minimum</b></p> <p>Up to and including 10 animals or 15% of animals inspected (which ever is the greater) with illegible/lost tags and no provision made for replacement.</p> <p><b>Medium</b></p> <p>11 to 20 animals or 20% of animals inspected (which ever is the greater) with illegible/lost tags and no provision made for replacement.</p> <p><b>High</b></p> <p>More than 20 animals or 30% of animals inspected (which ever is greater) with illegible/lost tags and no provision made for replacement.</p> <p><b>Minimum</b></p> <p>Records present, minor shortfall in maintaining records.</p> <p><b>Medium</b></p> <p>Records present but not fully meeting the requirements. e.g. Movements not recorded within 36 hours but movements can be verified</p> <p><b>High</b></p> <p>No verifiable records e.g. No register</p> <p><b>Minimum, Medium or High</b> – depending on circumstances.</p>	<p><b>Rectifiable</b></p> <p><b>Rectifiable</b></p> <p><b>Rectifiable</b></p> <p><b>Rectifiable</b>, If records can be corrected.</p> <p><b>Permanent</b>, If records cannot be corrected.</p> <p><b>Rectifiable or Permanent</b> depending on circumstances.</p>

**Legislation for the Statutory Management Requirements.**

Referred to in Articles 3 and 4 of Council Regulation (EC) No 1782/2003.

Statutory Management Requirement	EC Directive/Regulations	UK/Scottish legislation
SMR 1	Directive 79/409/EEC on the conservation of wild birds (OJ L 103, 25.4.1979, p. 1). Articles 3, 4 (1, 2, 4), 5, 7 and 8.	Wildlife and Countryside Act 1981, the Conservation (Natural Habitats, &c.) Regulations 1994, and the Nature Conservation (Scotland) Act 2004.
SMR 2	Directive 80/68/EEC on the protection of groundwater against pollution caused by certain dangerous substances (OJ L 20, 26.1.1980, p. 43). Articles 4 and 5.	Groundwater Regulations 1998.
SMR 3	Directive 86/278/EEC on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture (OJ L 181, 4.7.1986, p. 6) Article 3.	Sludge (Use in Agriculture) Regulations 1989.
SMR 4	Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1) Articles 4 and 5.	Nitrate Vulnerable Zones (Scotland) Regulation 2003.
SMR 5	Directive 92/43/EEC on the conservation of natural habitats and of wild flora and fauna Articles 6, 13, 15 and 22(b).	Wildlife and Countryside Act 1981, the Conservation (Natural Habitats, &c.) Regulations 1994, and the Nature Conservation (Scotland) Act 2004.

**ANNEX 12 (Cont.)**

<p>SMR 6</p>	<p>Council directive 92/102/EEC on identification and registration of animals. Articles 3, 4 and 5.</p>	<p>The Sheep and Goats Movement (Interim Measures) (Scotland) Order 2002 (SI 2002/38) as amended.</p> <p>The Sheep and Goats Identification (Scotland) Regulations 2000 (SI 2000/418) as amended.</p> <p>The Cattle Database Regulations 1998 (SI 1998/1796) as amended.</p> <p>The Cattle Identification Regulations 1998 (SI 1998/871) as amended.</p> <p>The Pigs Record, Identification and Movement Order 1995 (SI 1995/11) as amended.</p> <p>The Bovine Animals (Identification, Marking and Breeding Records) (Amendment) Order 1993 (SI 1993/503).</p>
<p>SMR 7</p>	<p>Commission Regulation (EC) No 2629/97 (repealed by 911/2004) laying down detailed rules for the implementation of Council Regulation 820/97 (repealed by 1760/2000) as regards eartags, holding registers and passports in the framework of the system for the identification and registration of bovine animals. Articles 6 and 8.</p>	<p>The Cattle database Regulations 1998 (SI 1998/1796) as amended.</p> <p>The Cattle Identification Regulations 1998 (SI 1998/871) as amended.</p>
<p>SMR 8</p>	<p>Regulation 1760/2000 of the European Parliament and of the council establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products. Article 4 and 7.</p>	<p>The Cattle (Identification of Older Animals) (Scotland) Regulations 2000 (SI 2001/1) as amended.</p> <p>The Cattle Database Regulations 1998 (SI 1998/2969) as amended.</p> <p>The Cattle Database Regulations 1998 (SI 1998/2969) as amended.</p> <p>The Cattle Identification Regulation 1998 (SI 1998/871) as amended.</p>

**ANNEX 12 (Cont.)**

SMR 8a	Regulation (EC) No 21/ 2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC (OJ L 5, 9.1.2004, p. 8).	
SMR 9	Council Directive 91/414/EEC concerning the placing of plant protection products on the market. Article 3.	Plant Protection Products (Scotland) Regulations 2005 (SSI 200/331)
SMR 10	Council Directive 96/22/EC concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of beta-agonists. Articles 3, 4, 5 and 7.	Statutory Instrument 1997 No. 1729, The Animals and Animal Products (Examination for Residues and Maximum Residue Limits) Regulations 1997 as amended, and Statutory Instrument 2005 No. 2745, The Veterinary Medicines Regulations 2005.
SMR 11	Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1) Articles 14,15,17(1),18,19 and 20	Statutory Instrument 2004 No. 3279, The General Food Regulations 2004
SMR 12	Regulation 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible. Articles 7, 11, 12, 13 and 15.	The TSE (Scotland) Regulations 2002 (SSI 2002/255) as amended. A new, consolidated regulation which will replace the amended TSE (Scotland) Regulations 2002 is due to come into force in March 2006.

**ANNEX 12 (Cont.)**

SMR 13	Council Directive 2003/85/EEC introducing Community measures for the control of foot-and-mouth disease. Article 3.	The Foot-and-Mouth Disease Order 1983 (as amended).
SMR 14	Council Directive 92/119/EEC introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease. Article 3.	Specified Diseases (Notification) Order 1996. There is a similar requirement for rinderpest in the Cattle Plague Order 1928 (article 2), and for swine vesicular disease in the Swine Vesicular Disease Order 1972.
SMR 15	Council Directive 2000/75/EC laying down specific provisions for the control and eradication of bluetongue. Article 3.	The Bluetongue (Scotland) Order 2003.

## Groundwater Regulations 1998 List I and List II families and groups of substances

List I	<ol style="list-style-type: none"> <li>1. Organohalogen compounds and substances which may form such compounds in the aquatic environment.</li> <li>2. Organophosphorus compounds.</li> <li>3. Organotin compounds.</li> <li>4. Substances which possess carcinogenic mutagenic or teratogenic properties in or via the aquatic environment.</li> <li>5. Mercury and its compounds.</li> <li>6. Cadmium and its compounds.</li> <li>7. Mineral oils and hydrocarbons.</li> <li>8. Cyanides.</li> </ol>
List II	<ol style="list-style-type: none"> <li>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, Silver.</li> <li>2. Biocides and their derivatives not appearing in list I.</li> <li>3. Substances which have a deleterious effect on the taste and/or odour of groundwater, and compounds liable to cause the formation of such substances in such water and to render it unfit for human consumption.</li> <li>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.</li> <li>5. Inorganic compounds of phosphorus and elemental phosphorus.</li> <li>6. Fluorides.</li> <li>7. Ammonia and nitrites.</li> </ol>

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