



# Single Farm Payment Scheme

## INFORMATION LEAFLET 7

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### CROSS COMPLIANCE

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## 1. INTRODUCTION

1.1 The reform of the Common Agricultural Policy (CAP) recognised that farmers in receipt of support payments have important responsibilities towards the environment, public, animal and plant health and animal welfare.

1.2 The CAP reform agreement, implemented by Council Regulation (EC) No 1782/2003 (OJ L270,21.10.2003) sets out standards and requirements, known as **Cross Compliance**, which farmers have to meet as a condition of receiving their Single Farm Payment. These Cross Compliance requirements and measures concern the promotion of a more environment-friendly and sustainable approach to farming in Scotland.

1.3 Cross Compliance applies to all land within an agricultural business irrespective of whether it is 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 calendar months, not just for the minimum consecutive 10 month period. For common land and shared grazings each Single Farm Payment claimant must comply with Cross Compliance.

1.4 There are two elements to Cross Compliance:

- The first of these is compliance with a range of 18 European regulatory requirements covering the environment, food safety, animal and plant health and animal welfare. These **Statutory Management Requirements** are in force throughout the EU. Cross Compliance means that in future these will have to be complied with as a condition of receipt of the Single Farm Payment.
- The second is compliance with a requirement to keep land in **Good Agricultural and Environmental Condition (GAEC)**. Member States are permitted to define minimum requirements for GAEC on the basis of a European Framework.

1.5 Cross Compliance will be introduced on 1 January 2005, detailed rules for the implementation of Cross Compliance are laid down in Commission Regulation (EC) No 796/2004 (OJ L141,30.4.2004).

## 2. STATUTORY MANAGEMENT REQUIREMENTS

2.1 All of these conditions are already legally binding on Farmers and Crofters in Scotland. The only change is that in the future a breach of these legal requirements may lead to a partial or complete withdrawal of single Farm Payment. Member States have no discretion about what European Laws have to be applied as Statutory Management Requirements.

2.2 From 1 January 2005, 8 Directives and Regulations applying to environmental protection, as well as, identification and registration of animals will form part of Cross-Compliance:

### 2.3 Environment Regulations

- **Birds and Habitats Directives** – these Directives relate to the designation, protection and management of Natura 2000 sites and wider species protection measures including those concerning introductions to the wild of non-native species. Farmers will be required to abide by any management agreements with Scottish Natural Heritage (SNH) or the Scottish Executive Environment and Rural Affairs Department (SEERAD) affecting these sites or species of bird listed in the Birds Directive. Birds, plants and animals protected under these designations cannot be harmed.
- **Avoiding Groundwater Pollution** - Farmers are required to have an authorisation from the Scottish Environment Protection Agency (SEPA) to dispose of waste sheep dip and pesticide washings to land. Checks will be carried out to ensure that the conditions of such authorisations are complied with. Any farmer that dips sheep, or employs a contractor to do so on his behalf, must ensure that an authorisation is in

place prior to any disposal. SEPA is the enforcement authority for these regulations. Good practice guidance should also be followed to prevent groundwater pollution.

- **Sewage Sludge used in Agriculture** - Where sewage sludge is applied to agricultural land farmers must ensure that the requirements of The Sludge (Use in Agriculture) Regulations 1989 are complied with. These include the testing of sludge and soil and withdrawal periods for grazing animals or harvesting of crops. SEPA is the enforcement authority for these regulations.
- **Nitrate Vulnerable Zones** – Farmers within NVZs must comply with the requirements in the ‘Action Programme for Nitrate Vulnerable Zones (Scotland Regulations 2003). These, in particular, require farmers to keep farm records 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 according to a laid down list of requirements.

#### **2.4 Animal Identification and Registration Regulations**

These Directives and Regulations lay down the identification and record keeping requirements for cattle, sheep, goats and pigs. Updated regulations covering sheep and goats are due to come into force in 2005.

2.5 From **1 January 2006** a further 7 Directives and Regulations applying to notification of diseases, public, animal and plant health come under Cross Compliance.

2.6 From **1 January 2007** a further 3 Directives and Regulations covering animal welfare requirements will come under Cross-Compliance.

2.7 Full details of the Statutory Management Requirements applicable to Cross Compliance are shown in Annex A.

### **3. GOOD AGRICULTURAL AND ENVIRONMENTAL CONDITION**

3.1 Good Agricultural and Environmental Conditions (GAEC) for Scotland have been developed on the basis of a framework established in the European Legislation, to address the following four issues:

- **Soil erosion** – protection of soil.
- **Soil organic matter** – maintenance of soil organic matter levels.
- **Soil structure** – maintenance of soil structure.
- **Minimum level of maintenance** – ensure a minimum level of maintenance and avoid the deterioration of habitats.

3.2 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 detail 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 earlier this year.

3.3 The GAEC Measures must be followed to comply with Cross Compliance. Advisory Guidelines, including examples of good practice, have been developed to provide an aid to compliance.

3.4 The following two requirements apply to all of the land subject to GAEC measures:

- The land must be available for agricultural use or capable of returning to agricultural use at present or by any time during the next growing season.
- The land must be in a condition that an inspector/auditor could undertake normal control activity (e.g. measure the area and walk the land to identify features that should be excluded).

**Soil Erosion: Protect soil through appropriate measures**

-Minimum soil cover-

Measure

Advisory Guidelines / Good Practice

**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.**

Under arable cropping, there are measures available to you to prevent soil erosion over the winter period.

A roughly cultivated surface is one created by use of discs or tines.

**Soil Erosion: Protect soil through appropriate measures**

-Minimum land management reflecting site-specific conditions-

Measure

Advisory Guidelines / Good Practice

**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.**

You should undertake all or some of these measures if there is a risk of soil erosion by the wind. Consideration should be given to using minimum cultivation techniques and mulches.

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

A capped surface is defined as: those conditions which occur particularly in fine sandy and silty soils where soil particles run together when wet and dry out so as to form a crust. As a result water infiltration is reduced to the point where there is 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.

**Soil Erosion: Protect soil through appropriate measures**  
 -Minimum land management reflecting site-specific conditions-

| <u>Measure</u>   | <u>Advisory Guidelines / Good Practice</u>   |
|--|--|
| <p><b>4(i) Prevent erosion of land, particularly, banks of watercourses, watering points and feeding areas from overgrazing, heavy trampling or heavy poaching by livestock.</b></p> <p><b>(ii) 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.</b></p> <p><b>(iii) This measure does not apply to areas within 10m of a gateway and 3m of farm tracks necessarily used during wet-periods.</b></p> | <p>Sacrificial feeding areas may be more desirable on improved grassland/arable land providing the risk of soil erosion is very low.</p> <p>Heavy poaching means the cutting up of turf to a significant degree from trampling by livestock.</p> <p>When supplementary feeding outdoors, it will often be preferable to rotate feeding sites and make sure feeding rings are suitably positioned i.e. well away from watercourses and not on ground sloping towards a watercourse.</p> <p>Grazed forage cropped fields that have been poached should be ploughed or sown as ground conditions allow.</p> <p>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.</p> <p>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.</p> |
| <p><b>5(i) Maintain functional field drainage systems, including clearing ditches, unless environmental gain is to be achieved by not maintaining field drainage systems.</b></p> <p><b>(ii) Where environmental gain is to be achieved, this must be declared on the IACS return.</b></p>   | <p>An example of environmental gain would be the creation of wetland grazing areas.</p> <p>The timing of maintenance should be considered so as to minimise the impact on flora and fauna i.e. during late summer or early autumn.</p> <p>Consideration should be given to only clearing one side of the ditch or leaving vegetation breaks within the ditch to maintain wildlife corridors.</p>   |

**Soil Erosion: Protect soil through appropriate measures**  
 -Minimum land management reflecting site-specific conditions-

| <u>Measure</u>  | <u>Advisory Guidelines / Good Practice</u>   |
|---|--|
| <p><b>6 Follow the latest edition of the Muirburn Code.</b></p> | <p>Compliance with the Muirburn Code including guidance on the statutory controls on Muirburn will help to avoid extensive erosion on steep sites through burning.</p> <p>A copy of The Muirburn Code can be obtained from SEERAD and SNH local offices or from the Scottish Executive website at <a href="http://www.scotland.gov.uk/library3/environment/mbcd-00.asp">www.scotland.gov.uk/library3/environment/mbcd-00.asp</a></p> |

**Soil Organic Matter:**  
**Maintain soil organic matter levels through appropriate practices**  
 -Standards for crop rotations where applicable-

| <u>Measure</u>   | <u>Advisory Guidelines / Good Practice</u>   |
|--|--|
| <p><b>7 On arable land:</b></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>The Prevention of Environmental Pollution from Agricultural Activity (PEPFAA) code of good practice gives guidance on this measure.</p> <p>Match organic manure spreading rate to the nutrient requirement of the crop and the needs of the planned crop rotation.</p> <p>Where straw is to be incorporated it should be done evenly. Ideally this should be chopped straw.</p> |

**Soil Organic Matter:**  
**Maintain soil organic matter levels through appropriate practices**  
 -Arable stubble management-

| <u>Measure</u>  | <u>Advisory Guidelines / Good Practice</u>   |
|---|--|
| <p><b>8(i) Incorporate livestock manures within 2 weeks after spreading on stubbles.</b></p> <p>(ii) In areas prone to wind erosion, incorporation of livestock manures can be delayed.</p> | <p>Well timed incorporation of livestock manures can help to maintain Soil Organic Matter and guard against nutrient loss.</p> <p>The PEPFAA code of good practice gives guidance on this measure.</p> |

**Soil Structure:**  
**Maintain soil structure through appropriate measures**  
 -Appropriate machinery use-

| <u>Measure</u>  | <u>Advisory Guidelines / Good Practice</u>  |
|---|---|
| <p><b>9 Do not carry out any cultivations if water is standing on the surface or the soil is saturated.</b></p> | <p>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.</p> <p>Cultivation means to prepare for planting and sowing.</p> <p>Saturation is indicated by the appearance of water from the soil when pressure is applied e.g. from the equivalent of a footprint.</p> <p>The PEPFAA code of good practice gives guidance on this measure.</p> |

**Minimum Level of Maintenance:**  
**Ensure a minimum level of maintenance and avoid the deterioration of habitats**  
 -minimum livestock stocking rates or/and appropriate regimes

| <u>Measure</u>   | <u>Advisory Guidelines / Good Practice</u>  |
|--|---|
| <p><b>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.</b></p> <p><b>(ii) Where undergrazing is identified, a management regime to be observed on that site must be approved by SEERAD.</b></p> | <p>Undergrazing may be identified as allowing the growth, structure or species composition of grazed vegetation to significantly deteriorate through insufficient management.</p> <p>Biodiversity or other environmental gain may be achieved through the planned and managed encroachment of scrub and coarse vegetation.</p> <p>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.</p> <p>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.</p> |

**Minimum Level of Maintenance:**

**Ensure a minimum level of maintenance and avoid the deterioration of habitats**

-minimum livestock stocking rates or/and appropriate regimes-

Measure

Advisory Guidelines / Good Practice

**11(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).**

**(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.**

**(iii) Where overgrazing is attributable to rabbits you will be expected to provide evidence of use of available control methods.**

**(iv) Where overgrazing is identified, a management regime to be observed on that**

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.

Overburning should be avoided by following the Muirburn code.

**Minimum Level of Maintenance:**

**Ensure a minimum level of maintenance and avoid the deterioration of habitats**

-Protection of permanent pasture-

Measure

Advisory Guidelines / Good Practice

|  |   |
|--|---|
| <p><b><u>12</u> 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).</b></p> | <p>Guidance on who the relevant authority is and the Environmental Impact Assessment regulations can be obtained from your local SEERAD Area Office.</p>  |
| <p><b><u>13</u> 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).</b></p>  | <p>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.</p> <p>Ploughing, cultivating and re-seeding results in the natural vegetation being destroyed and replaced with sown grasses.</p> <p>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.</p> <p>In nearly all areas of deep peat, re-cutting moorland grips beyond what is needed for routine maintenance will also be considered as damaging and should not be carried out.</p> |

**Minimum Level of Maintenance:**

**Ensure a minimum level of maintenance and avoid the deterioration of habitats**

-Protection of permanent pasture-

Measure

Advisory Guidelines / Good Practice

**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).**

**Exceptions are allowed in the following circumstances:**

- (i) 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.**
- (ii) For the control of bracken with Asulam or other approved herbicides; or**
- (iii) The application of lime or fertiliser where no conservation damage will result e.g. holding fields adjacent to hill**

The Weeds Act 1959 applies to the following injurious weeds: spear thistle, creeping or field thistle, curled dock, broadleaved dock and ragwort.

SEPA should be consulted if it is intended to use a pesticide in or near a watercourse.

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

**Minimum Level of Maintenance:**

**Ensure a minimum level of maintenance and avoid the deterioration of habitats**

-Retention of landscape features-

Measure

Advisory Guidelines / Good Practice

|  |  |
|--|--|
| <p><b>15(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.</b></p> <p><b>(ii) No hedge trimming is permitted between 1 March and 31 July except for roadside hedge trimming, required in the interest of road safety.</b></p> <p><b>(iii) Written approval is not required where it is proposed to widen field entrances to enable access for livestock or farm machinery.</b></p> | <p>Examples of potentially damaging activities are :</p> <ul style="list-style-type: none"><li>• 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.</li><li>• The canalisation or culverting of watercourses. This type of activity will be regulated by SEPA under the Water Environment and Water Services (Controlled Activities) (Scotland) Regulations, currently due to come into force in April 2006.</li><li>• 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.</li><li>• The use of trees as straining posts.</li></ul> <p>Guidance on who the relevant authority is can be obtained from your local SEERAD Area Office.</p> |
|--|--|

|   |   |
|---|---|
| <p><b>16. Avoid the deterioration of non-productive landscape features which are part of the agricultural unit, such as shelter belts, copses and ponds.</b></p> <p><b>Deterioration is defined as:</b></p> <ul style="list-style-type: none"><li>(i) <b>Not maintaining functional stockproof fences around shelter belts and copses.</b></li><li>(ii) <b>Severe poaching where feeding and/or other husbandry practices of livestock occur in copses and shelterbelts.</b></li><li>(iii) <b>Failure to maintain ponds on the holding e.g. eutrophication, drainage.</b></li></ul> | <p>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), and land managers should take reasonable positive action to prevent these features from deteriorating.</p> <p>Severe poaching means the cutting up of turf by the trampling of livestock to the destruction of the underlying vegetation leading to a predominantly muddy surface.</p> |
|---|---|

**Minimum Level of Maintenance:**

**Ensure a minimum level of maintenance and avoid the deterioration of habitats**

-Retention of landscape features-

Measure

Advisory Guidelines / Good Practice

**17(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.**

**(ii) Monument 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)).**

**(iii) 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.**

Information on these protected elements of the historic environment is available from several sources:

- Local Authorities;
- Historic Scotland;
- SNH; and
- on line at [www.pastmap.org.uk](http://www.pastmap.org.uk)

Pastmap provides online data on the location of scheduled monuments, listed buildings and Inventory sites.

For guidance on scheduled monuments owners should contact Historic Scotland at:

Ancient Monuments  
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)

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.

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.

**Minimum Level of Maintenance:**

**Ensure a minimum level of maintenance and avoid the deterioration of habitats**

-Retention of landscape features-

**Measure**

**Advisory Guidelines / Good Practice**

**18(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 at any time during the next growing season.**

**(ii) 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.**

Through appropriate grazing, topping or other permissible methods of control land managers should 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.

These 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. Sites of Special Scientific Interest).
- The growth of scrub is easily reversible through regular cutting, use of approved herbicides or grazing.

## 4. ENFORCEMENT

4.1 SEERAD will be responsible for ensuring inspections are carried out in accordance with EU Regulations to make sure you meet the Cross Compliance standards and requirements. Many Cross Compliance requirements are based on existing legislation and practices for which inspection arrangements are already in place. We anticipate that CAP reform as a whole will reduce the number of farm inspections carried out by SEERAD.

4.2 SEERAD will co-ordinate inspections with existing farm visits where practicable.

4.3 SEERAD will carry out inspections in partnership with specialist enforcement bodies such as the Scottish Environment Protection Agency (SEPA) and Scottish Natural Heritage (SNH). SEERAD provide a single point of contact for all Cross Compliance related enquiries as these relate to the Single Farm Payment. Specialist agencies can provide advice on the Statutory Management Requirements that they enforce.

## 5. NON-COMPLIANCE

**5.1 If the Statutory Management Requirements or Good Agricultural and Environmental Conditions are not complied with the Single Farm Payment payments can be reduced.**

5.2 Any reduction will be applied to the overall amount of direct payments that has been or will be granted to the farmer following the submission of an aid application in the calendar year that the non-compliance was found.

5.3 In the case of negligence, payments will be reduced by 3% for any non-compliance. If more than one case of negligent, non-compliance is identified, reductions will be accumulated; however the overall reduction will not exceed 5%. Where repeated non-compliance with the same standard or requirements is identified, the reduction will be three times the previous reduction up to a maximum of 15%.

5.4 In cases of intentional non-compliance with Cross Compliance requirements or measures the Single Farm Payment can be reduced by a minimum of 20% and may even result in exclusion from the Single Farm Payment Scheme the following calendar year.

**5.5 In some circumstances, farmers may not be penalised for minor or technical infringements of Cross Compliance rules.**

5.6 You may appeal against a decision we have taken to apply a refusal, reduction or recovery as a result of a Cross Compliance check. Appeals will be considered under the existing EU Agricultural Subsidy Schemes appeals procedure.

## List of Statutory Management Requirements applicable from 1 January 2005

## Annex A

| Ref. No.           | EC Directive / Regulations  | UK/Scottish legislation  | What will be the Cross Compliance requirement to be met by the farmer?  |
|--------------------|---|--|---|
| <b>Environment</b> |   |  |   |
| 1                  | <p>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.</p> | <p>Wildlife and Countryside Act 1981 as amended by the Nature Conservation (Scotland) 2004 Act</p> | <p>In relation to <u>Special Protection Area (SPA)</u> under the <u>Birds Directive</u>, you must comply with the <u>1994 Habitats Regulations</u> including:</p> <ul style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>c) Comply with any other management order or restoration order that is relevant to the purpose of the SPA.</li> <li>d) Comply with the terms of any management agreement entered into with SNH that relates to the purpose of the SPA.</li> <li>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.</li> </ul> <p><u>You must not:</u></p> <ul style="list-style-type: none"> <li>Intentionally or recklessly damage any natural feature specified in a SSSI notification, which is relevant to the purpose of the SPA.</li> </ul> <p><u>On any land, you must not:</u></p> <ul style="list-style-type: none"> <li>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).</li> <li>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.</li> <li>c) 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.</li> </ul> |

| Ref. No. | EC Directive / Regulations   | UK/Scottish legislation                                     | Relevant Codes of Practice/Guidance   | What will be the Cross Compliance requirement to be met by the farmer?   |
|----------|--|---|---|--|
| 2        | <p>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.</p>              | <p>Groundwater Regulations 1998.</p>                        | <p>The Sheep Dipping Code of Practice for Scottish Farmers, Crofters and Contractors.</p> | <p>Under the Groundwater Regulations 1998 land managers require an Authorisation from 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 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.</p> <p>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. 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, SEPA may prohibit the activity altogether. The Sheep Dipping Code of Practice may be cited in a Notice served by SEPA.</p> |
| 3        | <p>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.</p> | <p>Sludge (Use in Agriculture) Regulations 1989.</p>        | <p>Code of Practice for the Agricultural use of sewage sludge.</p>                        | <p>Scottish Water is the principal sludge producer in Scotland. Farmers using sludge on their land and the sludge producers are both required to comply with the Sludge (Use in Agriculture) Regulations 1989. These include the testing of sludge and soil and withdrawal periods for grazing animals or harvesting of crops. SEPA is the enforcing authority for the 1989 Regulations.</p> <p>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 PEPFAA code of good practice.</p> <p>Farmers in Nitrate Vulnerable Zones (NVZ's) will be expected to record the use of sludge in their Fertiliser and Manure Plan and to observe the relevant closed period, as necessary.</p>  |
| 4        | <p>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.</p>    | <p>Nitrate Vulnerable Zones (Scotland) Regulation 2003.</p> | <p>The PEPFAA code<br/>The PEPFAA Dos and Don'ts guide.</p>                               | <p>Farmers with land in NVZs must comply with the measures 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 set out in the "Guidelines for Farmers in Nitrate Vulnerable Zones" (2003) which has been sent to all farmers in NVZ's.</p> <p>The PEPFAA code with its Dos and Don'ts Guide includes advice designed to prevent the run-off or leaching of nitrates and other nutrients to watercourse or ground water. It identifies which measures of good practice are mandatory or are required under Cross Compliance.</p>  |

| Ref. No. | EC Directive / Regulations  | UK/Scottish legislation   | Relevant Codes of Practice/Guidance   |
|----------|---|---|---|
| 5        | <p>Directive 92/43/EEC on the conservation of natural habitats and of wild flora and fauna Articles 6, 13, 15 and 22(b)</p> | <p>Wildlife and Countryside Act 1981 as amended by the Nature Conservation (Scotland) 2004 Act.</p> | <p>In relation to Special Area of Conservation (SAC) under the Habitats Directive, you must comply with the 1994 Habitats Regulations including:</p> <ul style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>c) Comply with any other management order or restoration order that is relevant to the purpose of the SAC.</li> <li>d) Comply with the terms of any management agreement entered into with SNH that relates to the purpose of the SAC</li> <li>e) Comply with the terms of any agri-environment agreement that relates to the purpose of the SAC.</li> </ul> <p><u>You must not:</u></p> <ul style="list-style-type: none"> <li>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.</li> <li>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).</li> <li>c) Take or kill European Protected Species.</li> <li>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.</li> </ul> |

| Ref. No.  | EC Directive / Regulations   | UK/Scottish legislation   | Relevant Codes of Practice/Guidance  | What will be the cross compliance requirement to be met by the farmer?   |
|---|--|---|--|--|
| <b>Public &amp; Animal Health: Identification and registration of animals</b> |  |   |  |  |
| 6   | <p>Council directive 92/102/EEC on identification and registration of animals. Articles 3, 4 and 5.</p> <p><i>Note: Part of this regulation has been replaced by Council Regulation (EC) No 21/2004 on sheep and goat ID due to come into force from 9 July 2005.</i></p>  | <ul style="list-style-type: none"> <li>The Sheep and Goats Movement (Interim Measures) (Scotland) Order 2002 (SI 2002/38) as amended</li> <li>The Sheep and Goats Identification (Scotland) Regulations 2000 (SI 2000/418) as amended</li> <li>The Cattle Database Regulations 1998 (SI 1998/1796) as amended</li> <li>The Cattle Identification Regulations 1998 (SI 1998/871) as amended</li> <li>The Pigs Record , Identification and Movement Order 1995 (SI 1995/11) as amended</li> <li>The Bovine Animals (Identification, Marking and Breeding Records) (Amendment) Order 1993 (SI 1993/503)</li> </ul> | <p><u>Cattle</u></p> <p>The British Cattle Movement Service (BCMS) operate 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.</p> <p>You can also find information on the BCMS web page at - <a href="http://www.rpa.gov.uk/rpa/rpaweb.nsf">www.rpa.gov.uk/rpa/rpaweb.nsf</a> or you can call the BCMS helpline on 0845 050 1234.</p> <p><u>Sheep and Goats</u></p> <p>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.</p> <p>The letters are available on the SEERAD website at - <a href="http://www.scotland.gov.uk/library5/agri/sstag-00.asp">www.scotland.gov.uk/library5/agri/sstag-00.asp</a> or you can call the Scottish Animal Movement Unit (SAMU) on 0131 244 4202.</p> <p><u>Pigs</u></p> <p>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.</p> <p>You can also contact the Scottish Animal Movement Unit (SAMU) on 0131 244 4202 for further information.</p> | <p>Full compliance with domestic legislation.</p> <p>This includes where appropriate, keeper registration, the registration of animals, ear tag identification, record keeping and the recording of animal movements. Details can be obtained from your local SEERAD office or in the case of cattle BCMS who should be contacted if you are in any doubt as to the specific requirements.</p> |
| 7   | <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> | <ul style="list-style-type: none"> <li>The Cattle database Regulations 1998 (SI 1998/1796) as amended</li> <li>The Cattle Identification Regulations 1998 (SI 1998/871) as amended</li> </ul>   |  |  |
| 8   | <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>  | <ul style="list-style-type: none"> <li>The cattle (Identification of Older Animals) (Scotland) Regulations 2000 (SI 2001/1) as amended</li> <li>The cattle Database Regulations 1998 (SI 1998/2969) as amended</li> <li>The cattle Database Regulations 1998 (SI 1998/2969) as amended</li> <li>The Cattle Identification Regulation 1998 (SI 1998/871) as amended</li> </ul>   |  |  |

## List of the further 7 statutory Management Requirements applicable from 1 January 2006

| Ref. No.                               | EC Directive / Regulations   | What will be the Cross Compliance requirements to be met by the farmer?  |
|--|--|--|
| <b>Public, Animal and Plant Health</b> |  |  |
| 9                                      | Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1) Article 3   | <ol style="list-style-type: none"> <li>1. That the farmer has not retained products that are no longer approved for use.</li> <li>2. That the farmer is carrying out spray operations on approved crops only, following the Green Code using the pesticide at the correct dosage levels and leaving sufficient 'buffer zones' so that the spray does not enter watercourses. Plant Protection Products (Scotland) Regulations 2003 (SSI 2003/579) refers.</li> </ol>   |
| 10                                     | Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of beta-agonists (OJ L 125, 23.5.1996, p. 3) Articles 3, 4, 5 and 7.   | No illegal use of substances having a hormonal, thyrostatic action, or the use of beta agonists. Where confirmed residues of banned substances are found following Meat Hygiene Service (MHS) inspection the State Veterinary Service (SVS) will carry out an on-farm investigation, including taking extra samples.   |
| 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 | <ol style="list-style-type: none"> <li>1. Ensure that the food and feed safety requirements, specified in Articles 14 and 15 of Regulation 178/2002, are met.</li> <li>2. Ensure that all stages of production, processing and distribution within the businesses under their control, satisfy the food and feed safety requirements of food law which are relevant to those activities, and verify that such requirements are met (Article 17).</li> <li>3. Maintain traceability systems (Article 18).</li> <li>4. Withdraw and/or recall food or feed from the market if this is not in compliance with food or feed safety requirements, and notify competent authorities (Articles 19/20).</li> </ol> |

| Ref. | EC Directive / Regulations  | What will be the Cross Compliance requirements to be met by the farmer?  |
|------|---|--|
| 12   | <p>Regulation (EC) 999/2001 of the European Parliament and of the Council of 28 January 2002 laying down rules for the prevention, control and eradication transmissible spongiform encephalopathies. (OJ L 147, 31.5.2001 p. 1) Articles 7, 11, 12, 13 and 15.</p> | <p>Article 7: The farmer must not feed to ruminants protein derived from mammals or feed any products of animal origin to farmed animals, in accordance with Annex IV. Further, the farmer must not export or store feed intended for farmed animals which contains protein derived from mammals or feed intended for mammals, except for the feeding to dogs and cats.</p> <p>Article 11: The farmer must immediately notify the Divisional Veterinary Manager (DVM) of any animal suspected of being infected by a Transmissible Spongiform Encephalopathie (TSE).</p> <p>Articles 12, 13: Once notification of a TSE suspect is made, the farmer must fully comply with movement restrictions or any other notices served on that animal or animals by an inspector under these articles.</p> <p>Article 15: This Article moves away from the individual farmer by largely focusing toward the trade aspects of the industry. However, should the farmer have in his possession a TSE suspect animal(s) which is already covered in Articles 12 and 13, he must remain in full compliance of any movement restrictions.</p> |
| 13   | <p>Council Directive 85/511/EEC of 18 November 1985 introducing Community measures for the control of foot-and-mouth disease (OJ L 315, 26.11.1985, p. 11) Article 3.</p>   | <p>As implemented in the UK by the Foot-and-Mouth Disease Order 1983 (S.I. 1983/1950), as amended; requires any person who has in his possession or under his charge an affected or suspected animal or carcass to notify the fact to the authorities.</p>   |
| 14   | <p>Council Directive 92/119/EEC of 17 December 1992 introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease (OJ L 62, 15.3.1993, p. 69) Article 3.</p>                          | <p>The notification provisions of this Directive are implemented in the UK via the Specified Diseases (Notification) Order 1996, as amended, which requires a person who has in his possession or under his charge an animal or carcass which he knows or reasonably suspects is infected to notify the authorities. There is a similar requirement in respect of swine vesicular disease in the Swine Vesicular Disease Order 1972.</p>   |
| 15   | <p>Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue (OJ L 327, 22.12.2000, p. 74) Article 3.</p>  | <p>As implemented by the Bluetongue (Scotland) Order 2003, requires any person who knows or suspects that an animal or carcass in his possession or under his charge is diseased to notify the authorities.</p>  |

### List of the 3 further Statutory Management Requirements applicable from 1 January 2007

| Ref. No.              | EC Directive / Regulations   | What will be the Cross Compliance requirements to be met by the farmer?   |
|-----------------------|--|---|
| <b>Animal welfare</b> |  |   |
| 16                    | Council Directive 91/629/EEC of 19 November 1991 laying down minimum standards for the protection of calves (OJ L 340, 11.12.1991, p. 28). Articles 3 and 4                        | The Welfare of Farmed Animals (Scotland) Regulations 2000, as amended. The Code of Recommendations for the Welfare of Cattle contains a section on calf rearing. Failure to comply with the Regulations and Code may lead to loss of support. |
| 17                    | Council Directive 91/630/EEC of 19 November 1991 laying down minimum standards for the protection of pigs (OJ L 340, 11.12.1991, p. 33) Article 3 and 4 (1)                        | The Welfare of Farmed Animals (Scotland) Regulations 2000, as amended. The Code of Recommendations for the Welfare of Pigs. Failure to comply with the Regulations and Code may lead to loss of support.                                      |
| 18                    | Regulation (EC) No 178/2002 of the Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes (OJ L 221, 8.8.1998, p. 23) Article 4 | The Welfare of Farmed Animals (Scotland) Regulations 2000, as amended. Failure to comply with the Regulations and Code may lead to loss of support.   |



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