

SCOTTISH GOVERNMENT CONSULTATION 3 FINANCE AND CONTROLS

To enter the electronic consultation on the European Commission's proposals for future "**Finance and Controls**

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This consultation covers the draft Regulations that the European Commission has recently published on the future Common Agricultural Policy (CAP) post-2013. The proposals cover all aspects of the CAP and include a new system for making direct payments to farmers (Pillar 1), revised funding mechanisms for a variety of rural development initiatives (Pillar 2) as well as the future inspection and audit requirements that will apply to both pillars.

- strongly agree
- agree
- neither agree nor disagree
- disagree
- strongly disagree
- I don't know

FINANCE AND CONTROLS

Background

The proposed regulation that is being branded the Horizontal Financial Regulation is concerned with having a single legal framework for financing the two existing agricultural funds: the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD). The proposed regulation therefore replaces the existing finance and controls regulation as well as taking in certain elements of the current Direct Payments and Rural Development Regulations, for example cross-compliance. The draft Regulation sets out the main principles for which each fund can be used and establishes a number of the principal conditions and controls. The detailed rules for each Fund will be established in further regulations, known as implementing regulations, which will expand on the principles in the proposed horizontal regulation. The text establishes the process for the European Commission to ensure sound management of these EU funds through on the spot checks, provision of information and documents by Member States to the Commission; clearance of accounts (an annual Commission decision verifying completeness and accuracy of Member States' accounts); conformity clearance (Commission decision on whether Member States' payments have been made in accordance with EU law, and, if applicable, how much should be disallowed); and the process for Member States to recover incorrect payments from recipients. The proposed Regulation also sets out the systems for controls and penalties. The Regulation provides for the continuation of the existing control framework (known as the Integrated Administration and Control System) (IACS) for direct payments and its extension to rural development. The draft sets the rules on cross compliance (a range of standards covering public, animal and plant health, and environmental and animal welfare) and the Farm Advisory Service. Cross Compliance will continue to apply to the vast majority of direct payments. Some Good Agricultural and Environmental Condition (GAEC) standards and Statutory Management Requirements (SMRs) under cross compliance have been removed, whilst new ones concerning water and use of pesticides will be added. Finally, the proposal sets the rules for exchange rates and the use of the Euro and provides a basis for a common monitoring and evaluation framework to

measure the performance of the CAP during the next period. It is important that we know what you think about the various options being proposed by the Commission in relation to:

1. Financing under the CAP
2. Advice, inspections and evaluation
3. Cross compliance

SECTION 1: FINANCING UNDER THE CAP

At Article 7 the Commission proposes that the execution of payments can not be delegated and at Article 43(1) states that where expenditure has been made by bodies which are not accredited Paying Agencies, that the expenditure should be reduced or suspended. This has significant implications for the delivery of the LEADER element of the new RD programme. **Do you agree that LEADER expenditure should be paid out by SGRPID as the accredited Paying Agency?**

Neither agree or disagree

At Article 76, the Commission proposes that support payments and certain payments under the Rural Development Regulation shall be made in up to 2 instalments within the relevant payment window (1 December to 30 June). The Commission proposals also provide for advances to be made in the period 16 October to 1 December provided that all the verification checks and on the spot controls on eligibility have been finalised. **Do you consider that the Scottish Government should opt for a regime of part and final payment within the payment window?**

Neither agree nor disagree

In addition.

Do you agree that the Scottish Government should advance the SAF date by up to 2 months to facilitate the option of making payments available in the 16 October to 1 December period?

Neither agree nor disagree

The Commission proposes to continue to allow Direct Payments to be made in Euros provided there is *no systematic advantage compared with use of the national currency*. **Do you agree that there should be a continuation of the facility for Direct Payments to be made in Euros?**

Agree

To support improvements in the accuracy of applications and payments, at Article 73 (2), the proposal requires Member States to communicate electronically with beneficiaries in relation to 'turnaround data', and graphic material on locations of land parcels. **Do you agree that it would aid the accuracy and timeliness of processing were the Scottish Government able to receive beneficiary applications electronically and undertake administrative validation of these using the on-line system?**

Agree

SECTION 2. ADVICE, INSPECTIONS AND EVALUATION

Articles 12 – 15 set out the Commission's proposals to maintain a Farm Advisory System to ensure that farmers and others can access targeted advice on a range of issues, provided by suitably qualified advisers. This proposal builds on the free generic advice we already provide via the Public Good Advisory Services delivered by SAC, covering at least Cross-Compliance. The proposal would expand the minimum range of advice available, for example to include climate change mitigation and

adaptation, biodiversity, water protection and sustainable development especially of small farms. It would also involve delivery of advice on an individual farm basis. **Do you agree that the current farm advisory system should be expanded and individually targeted, as proposed by the Commission?**

Strongly agree

At Article 61(4), the proposal is for combined on the spot checks covering agricultural subsidies and rural development support concurrently. **Do you agree that as far as possible there should be a holistic approach to inspections?**

Agree

The proposals provide for the establishment of a common monitoring and evaluation framework with a view to measuring the performance of the Common Agricultural Policy. That framework shall include all instruments related to the monitoring and evaluation of CAP measures and in particular of the direct payments, market measures, rural development measures and of the application of cross compliance. **Do you agree that the common monitoring and evaluation framework should be all embracing and include direct payments, market measures, rural development and the application of cross compliance?**

Agree

The impact of these CAP measures shall be measured in relation to the following objectives:

- (a) viable food production, with a focus on agricultural income, agricultural productivity and price stability;
- (b) sustainable management of natural resources and climate action, with a focus on greenhouse gas emissions, biodiversity, soil and water;
- (c) balanced territorial development, with a focus on rural employment, growth and poverty in rural areas.

Do you agree that the impact of the CAP should be measured against the three objectives shown?

We agree that sustainable management of our countryside should be a major priority for the CAP but this allied to a 'focus on greenhouse gas emissions, biodiversity, soil and water there should be a priority and objectives arising from a commitment to sustainable management of Scotland's landscapes. This is consistent with Article 5 Union priorities for Rural Development

(4) restoring, preserving and enhancing ecosystems dependent on agriculture and forestry, with a focus on the following areas:

- (a) restoring and preserving biodiversity, including in Natura 2000 areas and high nature value farming, and the state of European landscapes.

SECTION 3. CROSS COMPLIANCE

In relation to cross compliance, the Commission has reviewed the current rules with a view to simplification, strengthening the climate change dimension within GAEC and ensuring consistency with the provisions of Greening and of relevant environmental measures offered under rural development. The cross compliance system forms an integral part of the CAP and is to be

maintained. However, the Commission has proposed that its scope, which previously consisted of separate lists of statutory management requirements and standards of good agricultural and environmental condition of land, should be streamlined so that consistency is ensured and made more visible. The requirements and standards are now organised in a single list in Annex II of the proposed regulation and grouped by three areas and nine issues. It has been proposed that a number of the current requirements within the scope of cross compliance are not sufficiently relevant to farming activity or the area of the holding and concern national authorities rather than beneficiaries. The Commission have proposed therefore adjusting the scope in these areas including elements of the Sewage Sludge, and Birds and Habitats Directives.

The SMRs relating to control of animal diseases have been removed from the scope of cross compliance. These relate to the requirement of a farmer to notify the relevant authorities if an animal has, or is suspected of being infected with, one of the specified diseases and are relevant only during a disease outbreak.

The Commission proposes that the Water Framework Directive (WFD) and The Sustainable Use of Pesticides Directive are to be brought into cross compliance only once the Directives have been implemented in all Member States. Due to the impending repeal of the Directive protecting groundwater against pollution from certain substances including waste sheep dip, it is proposed that an interim GAEC measure which covers this standard is defined in order to continue to provide this protection until the WFD is included within cross compliance.

The proposed cross compliance framework includes GAEC rules to better address water, soil, carbon stock, biodiversity and landscape issues as well as a minimum level of maintenance of the land. This includes greater emphasis on maintaining soil organic matter. While the previous optional standards are removed, some elements are still covered within the unified framework.

It is proposed that participants in a Small Farmers Scheme, if adopted, should be exempt from cross compliance and in particular from its control system and from the risk of cross compliance penalties. However, that exemption would not remove participants from the scope of national legislation and from the possibility of being checked and having penalties imposed under that legislation.

The reduction in the number of areas of cross compliance could have a small impact on the application of penalties in the event of multiple breaches but otherwise the penalty system proposed by the Commission is unchanged.

Cross Compliance

Article 99 of the draft regulation maintains the current cross compliance penalty regime and current levels of payment reductions for breaches of the requirements and standards.

Do you agree that the current penalty regime and levels of payment reductions should be retained?

Disagree

Article 92 of the draft regulations exempts beneficiaries participating in the Small Farmers' Scheme from being subject to cross compliance penalties. **Do you agree that beneficiaries**

participating in the Small Farmers' Scheme should be exempt from cross compliance penalties?

Strongly disagree

Annex II of the draft regulation proposes removing Article 5(a), (b) and (d) of Directive 2009/147/EC (currently part of SMR 1 - conservation of wild birds), from cross compliance. **Do you agree that**

requirements relating to deliberately killing, capturing and disturbing wild birds and destroying and removing birds nests should be removed from cross compliance?

Strongly disagree

Annex II proposes removing Article 3 of Directive 86/278/EEC (currently SMR 3 - the use of sewage sludge in agriculture) from cross compliance. **Do you agree that requirements relating to the use of sewage sludge in agriculture should be removed from cross compliance?**

Neither agree or disagree

Annex II proposes removing Article 13(1) (a) of Directive 92/43/EEC (currently part of SMR 5 - conservation of flora and fauna) from cross compliance. **Do you agree that requirements relating to deliberately picking, collecting, cutting, uprooting or destroying European protected plant species should be removed from cross compliance?**

Strongly disagree

Annex II of the draft regulation proposes removing:

- Article 3 of 85/511/EEC (currently SMR 13 - control of foot and mouth) from cross compliance.
- Article 3 of 92/119/EEC (currently SMR 14 - control of certain diseases) from cross compliance; and
- Article 3 of 2000/75/EC (currently SMR 15 - control of blue tongue) from cross compliance.

Do you agree that requirements relating to the control of foot-and-mouth disease, blue tongue and certain animal diseases should be removed from cross compliance?

Neither agree or disagree

Article 93 proposes the inclusion of the Water Framework Directive into cross compliance once the Directive has been implemented by all Member States. **Do you agree that the Water Framework Directive should be included in cross compliance?**

Strongly agree

Article 93 proposes the inclusion of the Sustainable use of Pesticides Directive into cross compliance once the Directive has been implemented by all Member States. **Do you agree that the Sustainable use of Pesticides Directive should be included in cross compliance?**

Strongly agree

Annex II of the proposed regulation places a greater emphasis on soil organic matter and carbon rich soils and introduces two new GAEC standards. **Do you agree there should be two new GAEC standards relating to a ban on burning arable stubble and the protection of wetland and carbon rich soils, including a ban on first time ploughing?**

Strongly agree

Please comment on specific SMR's/GAEC's you would wish to include or remove

Annex II proposes removing the GAEC soil structure standard relating to the appropriate use of machinery (currently GAEC 9) from cross compliance. **Do you agree the soil structure standard relating to the appropriate use of machinery should be removed from cross compliance?**

Strongly disagree

What changes, if any, would you like made to the cross compliance penalty regime?

LINK believes that for retaining maximum public benefit from the Common Agricultural Policy, all the existing cross compliance measures should be retained and additionally strengthened by adding measures dealing more effectively with landscape concerns as underlying Scottish Government commitments expressed in the National Performance Framework and as commitments signed up to under the European Landscape Convention.

Our response to the question on retaining the existing penalty regime for non-compliance was based on our view that the existing penalties are not being rigorously applied. The question is ambiguous as disagreement with the existing penalties doesn't offer the different options of less or more rigorous penalties.

LINK believes there should be no weakening of the current cross compliance regime and that in preference the regulations should be strengthened. Cross compliance measures to protect soils, the environment, landscape features and both natural and cultural heritage are essential to retaining public benefit from the basic area and other farm payments. These payments are made out of the public purse (whether from the EU or indirectly from taxation in Scotland) and therefore there should be clear public benefit arising from these payments. LINK believes that all farmers should be supplied with environmental maps setting out the extent of significant environmental features (whether landscape, biodiversity and heritage areas) together with identified access routes to help land managers understand the public benefits being asked from them for cross compliance. Such mapping should also be linked to the 30% 'Greening' areas being selected for targeted attention as Ecological Focus Areas. This should be underpinned by an enlarged and better trained advisory service that helps farmers protect these significant features as part of their basic payment as well as encouraging them to prioritise key sites, areas and landscapes for improved management under the next SRDP. This is consistent with Scottish Government objectives under the Scottish Land Use Strategy, European Landscape Convention and implementation of the Biodiversity, Climate Change and Water framework Directives.

This response was submitted by Jonathan Wordsworth on behalf of Scottish Environment LINK's Agriculture Task Force members as follows:

**Archaeology Scotland
National Trust for Scotland
RSPB Scotland
Scottish Wildlife Trust
Woodland Trust Scotland**