

Introduction

Overview

Cross compliance rules apply to you if you receive direct payments under Common Agricultural Policy (CAP) support schemes or if you receive payments under certain Rural Development Programme for England (RDPE) schemes. We may reduce your payments if you do not meet these rules.

There are 3 aspects to cross compliance:

- specific European legal requirements, known as Statutory Management Requirements (SMRs);
- standards, based on a European legal framework, which require you to keep your land in Good Agricultural and Environmental Condition (GAEC); and
- an obligation to maintain a level of permanent pasture not included in the crop rotation for 5 years or more. This is not a cross compliance obligation for individual farmers, but may become one in future years.

Cross compliance rules apply in addition to your underlying obligations under European and UK legislation. Cross compliance reductions will be applied independently of any other sanctions you may face under this legislation.

Many agricultural activities are covered by cross compliance and you must meet the rules across the whole agricultural area of your holding, regardless of the amount of land you entered into the schemes. This includes common land which you exercise or hold rights of common over, including rights in gross.

Schemes which are covered by cross compliance

You must meet the cross compliance rules to receive your full payments under the following schemes. (For the rural development schemes listed below, cross compliance rules apply only to farmers who entered into new commitments under these schemes from 1 January 2007.)

- Single Payment Scheme
- Entry Level Stewardship (including Organic Entry Level Stewardship and Uplands Entry Level Stewardship)
- Higher Level Stewardship (including Organic Higher Level Stewardship and Uplands Higher Level Stewardship)
- Uplands Transitional Payment
- Woodland Management Grant and Farm Woodland Premium elements of English Woodland Grant Scheme

Payment Reductions

If you do not meet all of the cross compliance rules, we may reduce your payments for applications submitted in the calendar year the non-compliance was found.

If you break more than one rule within the same broad area (for example, animal welfare), we will treat this as one single case of non-compliance.

If you break the rules in different areas (for example, animal welfare and the environment), we will treat these as separate cases of non-compliance. We will add the separate percentage reductions together.

We will not make a payment to anyone who artificially creates the conditions required to receive payment.

Negligent non-compliance

If you do not meet a cross compliance rule through negligence, we will generally reduce your payments by 3% for each non-compliance. This may be reduced to 1% or increased to 5% depending on the extent, severity and permanence of the non-compliance. In limited circumstances a warning letter may be issued. You can read guidance on how we decide upon the extent, severity and permanence of a non-compliance in the *Cross Compliance Verifiable Standards For England* document on our website at rpa.defra.gov.uk/crosscompliance/inspectionprocess.

As stated above, if you don't meet the rules in different areas, we will make separate reductions for each non-compliance. We will add the percentage reductions together, but the maximum reduction will be 5% of your overall payment.

If you don't meet the same rule more than once during a period of 3 consecutive calendar years, the reduction which applies to the repeated non-compliance will be 3 times that for a first time non-compliance. Reductions for further repetitions will continue to be multiplied by 3, up to a maximum of 15% of your overall payments.

If you continue not to meet the rules and the reduction has reached 15%, we will treat any further cases of non-compliance as intentional. We will multiply the earlier reduction by 3. We will work this out on the original amount and before we applied the 15% maximum.

Example 1

If in 2011 you did not meet the cattle identification rules (SMR 7) as you did not report movements of your cattle, this would have resulted in a 3% reduction to your 2011 payments. If in 2012 you again did not report movements of your cattle, but not as many as in 2011, this would normally have resulted in a 1% reduction. However, as this is a repeat non-compliance, we multiply the 1% reduction by 3. We would then make a 3% reduction to your 2012 payments.

Example 2

If in 2011 you did not meet the protection of hedgerows and watercourses rules (GAEC 14) as you did not maintain a green cover within 2 metres of a number of your hedgerows, we would have reduced your 2011 payment by 3%. If in 2012 you again did not maintain a green cover within 2 metres of even more of your hedgerows, we would normally have reduced your payments by 5%. However, as this is a repeat non-compliance, we multiply the 5% reduction by 3. We would then reduce your 2012 payments by 15%.

Example 3

If in 2009 you did not meet the cattle identification rules (SMR 7) as you did not report the deaths of your cattle and then in 2010, 2011 and 2012 you also did not meet the rules for reporting the deaths of your cattle, we would reduce your payments as follows:

Scheme year	Reduction	Reason for reductions
2009	3%	
2010	9%	This is a repeat non-compliance and we multiply the result of the 2010 inspection (3%) by 3.
2011	15%	This is a repeat non-compliance and we multiply the previous 9% reduction by 3 to give a 27% reduction. However, this is capped at 15%. Any future non-compliances are considered to be intentional.
2012	81%	This is a repeat non-compliance and we multiply the previous pre-capped 27% reduction by 3.

Intentional non-compliance

If you intentionally do not meet a cross compliance rule, we will generally reduce your payments by 20%. This may be reduced down to 15% or increased up to 100% depending on the extent, severity and permanence of the non-compliance. More information can be found in the *Cross Compliance Verifiable Standards For England* document which is available on our website at rpa.defra.gov.uk/crosscompliance/inspectionprocess.

Refused inspections

If you refuse to allow an inspection to take place, intentionally obstruct an inspector or do not give reasonable help, you may lose all your payments. This applies even if you have claimed on the land, but are no longer the occupier and the new occupier refuses to allow the inspector access to that land.

Liability

Although land used to activate entitlements needs only to be at a claimant's disposal on a single day which is the SPS application deadline (in 2012 this will be 15 May), you must meet the cross compliance rules for the whole calendar year. This applies even if you do not occupy the land for the whole year. There is one exception to this rule which is when land is transferred from or to someone who has also submitted an application in that calendar year.

Example 1

You take on some agricultural land on 10 April 2012 and it is part of your holding on the SPS application deadline as declared on your SPS application. The person you took the land from does not submit an SPS application in 2012 for the rest of their agricultural land. You would be liable for cross compliance on the transferred land for the whole of the calendar year, including the period between 1 January 2012 and 9 April 2012 when you did not occupy the land.

However, if the person you took the land from submits an SPS application in 2012 for the rest of their agricultural land, they would be liable for cross compliance on the transferred land from 1 January 2012 until 9 April 2012. You would be liable for cross compliance on the transferred land from 10 April 2012 for the remainder of the calendar year.

Example 2

You give up some agricultural land on 14 July 2012 which was part of your holding on the SPS application deadline. The person you transferred the land to has not submitted an SPS application in 2012 for the rest of their agricultural land. You would be liable for cross compliance on the transferred land for the whole of the calendar year, including the period between 14 July 2012 and 31 December 2012 when you did not occupy the land.

However, if the person you transferred the land to has submitted an SPS application in 2012 for the rest of their agricultural land, they would be liable for cross compliance on the transferred land from 14 July 2012 until 31 December 2012. You would be liable for cross compliance on the transferred land from 1 January 2012 until 13 July 2012.

The same rules apply to rural development schemes also.

Therefore, if you are transferring land (either in or out) during the year, you should carefully consider the terms of any contractual arrangements between you and the other person(s). This is so you can make sure that your interests are protected if any cross compliance rules are not met, or access to inspectors is refused, before or after the land transfer. Also, you should bear in mind the risks of not having contractual arrangements agreed and in place. You may want to get professional or legal advice.

General

For cross compliance, you will be held responsible for actions or omissions which do not meet the cross compliance rules, whether they were committed by you or someone acting for you or under your control or, where they were caused by someone with access to your holding under the terms of any agreement you have in place. This means that you will be held responsible not only for your own actions and omissions, but also for those of other people who have access to your holding including, for example, contractors, employees, agents and family members.

Responsibility for making sure that the rules relating to the identification and traceability of cattle, sheep, goats and pigs are met lies with the keeper – the person with day to day responsibility for the animals. This applies regardless of who owns the animals and whose land they are grazing. Responsibility for welfare of all farmed animals lies with both the keeper, again, the person who has day to day responsibility for the animals, and the owner of the animals.

Relationship between GAEC and other environmental schemes

The GAEC standards give a baseline of environmental protection for soils, habitats and landscape features, and protection and management of water. If your obligations under the rural development schemes conflict with GAEC standards, the rural development scheme rules will generally take precedence. If you are unsure, you should contact the RPA's Customer Service Centre.

We've given guidance on GAEC standards for habitats and landscape features in a separate booklet, *Guidance for Cross Compliance in England: Management of Habitats and Landscape Features*. It should help you identify habitats and landscape features on your land, and it recommends areas of best practice, and gives more information and advice. It is available only on our website at rpa.defra.gov.uk/crosscompliance/farmerguidance.

Exemptions and derogations

In exceptional circumstances, you may be able to apply for an exemption from certain cross compliance standards. Examples include:

- issues of human or animal health or safety;
- when you need to control or treat serious causes of harm to plant health; or
- serious pest or weed infestations.

Ideally, you should not go ahead with the activity until you have received written permission but in emergency situations, where it may not be possible for you to make an advance request, we would not expect you to do so. If, however, you find the work conflicts with a standard, we would advise you to write to RPA as soon as possible to safeguard your position.

You may also be exempt from a cross compliance standard where, for example, the laying, construction or maintenance of a pipeline, cable or pylon, or the carrying out of railway or highway works, under statutory authority conflicts with meeting a standard. If you think this applies to you, ideally you should request an exemption from RPA in advance of the work being carried out. This should safeguard your position. Again, however, in emergency situations, where it may not be possible for you to make an advance request, we would not expect you to do so. If, however, you find the work conflicts with a standard, we would advise you to write to RPA as soon as possible to safeguard your position.

We would not expect statutory bodies to have to carry out the process of using their statutory powers to get the permission needed for access, or to carry out work, where voluntary consent exists and where statutory consent would be given if needed.

We can also give derogations from certain GAEC standards in limited circumstances. These can be granted for the following reasons:

- where the environment would benefit;
- for livestock or crop production; or
- improving public or agricultural access.

We have highlighted within the text of the individual standards where derogations may be available. You must apply to RPA in writing for this derogation and wait for written permission before carrying out any work.

You can apply for an exemption or derogation by writing to RPA's Customer Service Centre. Please make sure that any application is supported by adequate evidence, such as advice from an agronomist. Give all of the land parcel numbers for any affected fields for which you want an exemption or derogation. You can support your application with photographic evidence or explanatory diagrams. All letters and e-mails requesting exemptions and derogations should be clearly headed 'Cross Compliance Derogation'.

Force majeure and exceptional circumstances

In limited circumstances, we may accept that you are prevented from meeting the cross compliance rules due to force majeure or exceptional circumstances. In such cases, we may not have to reduce your payment. Force majeure is defined as 'unusual circumstances, outside your control, the consequences of which, in spite of all due care, could not be avoided except at the cost of excessive sacrifice on your part'. All cases will be considered individually.

For further information on force majeure and exceptional circumstances and how to apply, please read the current SPS Handbook.

Common failures under cross compliance rules



Throughout this guide we have highlighted key areas of non-compliance with a warning sign. For more information about failures to meet cross compliance rules, please read the cross compliance section of our website at rpa.defra.gov.uk/crosscompliance/inspectionstatistics

Appeals

If you want to appeal against a reduction that we have applied to your payments, please write to RPA's Customer Service Centre to tell us why you feel a mistake has been made. Please give as much detail as you can as well as your Single Business Identifier (SBI).

We will investigate and write to you to let you know the outcome. You should receive a reply within 15 working days. Where this isn't possible we will explain why and let you know when you can expect a reply.

If you're not happy with our decision you can make a formal appeal under the Single Payment Scheme Appeal Procedure. We will send you the guidance booklet, user guide and a *Stage 1 Appeal Form* (SP 6) when you are told of the above outcome.

You should fill in and return the SP 6 within 60 days of receiving our decision letter. Our Customer Relations will consider your case and write to you with the outcome.

Farm Advisory System

In England, farmers, other land managers, their advisors and agricultural contractors can access advice on cross compliance through the Farm Advisory System. You can find further details at defra.gov.uk/crosscompliance or by calling the Cross Compliance Helpline on 0845 345 1302.

RPA Customer Service Centre and other useful contact details

You can contact our Customer Service Centre, which is open from 8.30am to 5.00pm Monday to Friday. We will ask you for your SBI when you call. If you write to us please give us your SBI, the name of your business and the scheme year relating to your query.

Customer Service Centre: 0845 603 7777

E-mail address: csc@rpa.gsi.gov.uk

Address:

Rural Payments Agency

PO Box 300

Sheffield

S95 1AA

Defra helpline: 08459 33 55 77

Cross Compliance helpline: 0845 345 1302

You can find more contact details in the useful contacts appendix of this booklet, on our website at rpa.defra.gov.uk/crosscompliance/appendices.