



Northern Ireland  
Assembly

Committee for Agriculture and Rural  
Development

# OFFICIAL REPORT (Hansard)

Common Agricultural Policy Direct Payments and  
Support Schemes (Cross Compliance) (Amendment)  
Regulations (Northern Ireland) 2015:  
Department of Agriculture and Rural Development

16 June 2015

# NORTHERN IRELAND ASSEMBLY

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Common Agricultural Policy Direct Payments and Support Schemes (Cross Compliance) (Amendment) Regulations (Northern Ireland) 2015:  
Department of Agriculture and Rural Development

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**Members present for all or part of the proceedings:**

Mr William Irwin (Chairperson)  
Mr Sydney Anderson  
Mr Thomas Buchanan  
Mr Declan McAleer  
Mr Oliver McMullan  
Mr Ian Milne  
Mr Edwin Poots

**Witnesses:**

Mr Robin Bolton	Department of Agriculture and Rural Development
Mr Alan Galbraith	Department of Agriculture and Rural Development
Mr Ken Laverty	Department of Agriculture and Rural Development

**The Chairperson (Mr Irwin):** I welcome Alan Galbraith, head of the integrated controls branch; Ken Laverty, EU area-based reform branch; and Robin Bolton, horticulture and sustainability development branch. You are very welcome. I ask you to make your presentation. We are sorry, but we are under pressure for a quorum today. We have to suspend just before 2.00 pm for a few minutes too.

**Mr Alan Galbraith (Department of Agriculture and Rural Development):** We will go as quickly as we can. That is not a problem. Thank you very much indeed, Chair.

You have heard the purpose of the legislation before, so I will keep it brief. Cross compliance was introduced as part of the 2005 single farm payment scheme, and is, therefore, an existing policy. The revised common agricultural policy (CAP) was introduced with effect from 1 January 2015. Under that policy, farmers continue to be obliged to comply with all the verifiable standards relating to the cross-compliance requirements.

The legislation includes a revised list of the cross-compliance statutory management requirements and the good agricultural and environmental condition (GAEC) measures. The Common Agricultural Policy Direct Payments and Support Schemes Regulations enable the enforcement of the revised GAEC verifiable standards in allocating inspection responsibility to the relevant Northern Ireland competent control authorities and transfer to competent control authorities some of the GAEC requirements from DARD to the Northern Ireland Environment Agency (NIEA).

We believe that the Department has responded positively to the concerns expressed by the Committee and stakeholders raised through a number of consultations. Substantive changes have

been proposed to the standards relating to the good agricultural and environmental condition requirements, creating greater flexibility for appropriate farming practices and ploughing matches.

The main ones are the retention of landscape features and the derogation to permit hedge, tree or shrub cutting between 15 August and 31 August to facilitate farmers wishing to plant winter oilseed rape or reseed grasses or other herbaceous forages. Moreover, there are changes to minimum soil cover requirements. The requirement that the residue of crops harvested after 1 November not be disturbed until just before sowing the following spring has been removed, and permission has been added to the flexibility to the measures that farmers can put in place to limit soil erosion, where soil or weather conditions prevent a crop from being sown following harvest.

There is also a change with regard to the timescales under which a derogation is granted to permit ploughing matches to be between harvest and 15 January, and the removal of the requirement for a ploughing match to be organised by the Northern Ireland Ploughing Association or a body affiliated to it. The requirement for a farmer to obtain a derogation has been substituted by a requirement to obtain permission not to comply with the minimum soil standard in the area in which the ploughing match took place. There has, as always, been consultation. The revised requirements were subjected to a consultation exercise in April 2014, and the Committee was provided with the outcome of that in a letter from the Minister in June 2014. Further consultations have taken place in the Committee and with stakeholders on the above provisions and the standards. We believe that there have been significant improvements in those areas. Feedback has been received from the industry representatives, indicating that concerns surrounding these areas have been addressed positively.

Last time we attended, Chair, there were a number of queries that I will specifically deal with at this stage. There were three queries in particular. One was with regard to minimum soil cover, specifically ploughing after potato harvesting; the second was with regard to noxious weeds and the responsibility of DRD and the controls that we have in our own cross-compliance; and the third was confirmation of the dates for hedge cutting in the Republic of Ireland, for comparison with our own arrangements.

I will deal with the first one, minimum soil cover. The query was with regard to ploughing after potato harvesting. As you know, under the review, we considered the view of the Committee and that of the Ulster Farmers' Union, that the measures in place are restrictive. They restrict farmers in the management of their late crops to non-disturbance; that is, just leaving them alone. We recognise that that is restrictive and have sought scientific advice on it. We have a proposal that represents an easement but which provides greater flexibility for those who wish to do that. It is also in line with the commission's requirement on minimum soil cover. We can, essentially, allow a crop to be grown after late harvesting, whether it be potatoes or maize.

A specific query was raised with regard to de-stoning, and a valid point was put forward by the Committee last time. Ideally, those should be ploughed, and we are not restricting ploughing; ploughing can still happen to redistribute the stones back. However, as part of this measure, the expectation and the requirement is, of course, then to go with a green cover after ploughing. However, ploughing still can occur. Not in every instance, of course, are there circumstances where minimum soil cover is not required. Again, those are instances where, for various reasons — either because of extreme weather conditions or indeed because of waterlogging — there is no requirement to do that until conditions improve. We realise that that may not happen until springtime, but, until the conditions happen, that is when the green cover should be put in.

With regard to noxious weeds, the query was with regard to the policy of DRD and DARD. I can confirm that the noxious weeds policy that relates to public roadways certainly falls under DRD's routine maintenance work. If we are made aware of issues within the jurisdiction of roadways, we will certainly remind our colleagues in DRD of their obligations, and that is done on a regular basis. Essentially, their control is done under routine maintenance, whether that be cutting, pulling or spraying. From a DARD perspective, that control largely falls under cross-compliance. Those measures have not really changed. There has been a combination of two separate verifiable standards into one, and there has been a slight change in the area for certain species to align it with the others to make it more consistent. It is an easement that, we believe, will be welcomed by the industry.

The last query was about clarification on the hedge-cutting dates for the Republic of Ireland. Like us, they are aligned from 1 March to 31 August; they cannot cut in that period. In this regulation amendment, we are coming with the opportunity for farmers to apply for permission or a derogation where they will plant certain winter cereals as in winter oilseed rape, which has to go in quite early. Farmers who wish to plant that crop or who wish to reseed on arable ground can apply for a

derogation to cut their hedges between 15 August and 31 August. Your real query was on the South in comparison. They are going through a review with regard to a derogation for winter crops, and the outcome is expected in a couple of weeks' time, potentially. We are not aware of that decision.

That was a quick run-through of where we are.

**The Chairperson (Mr Irwin):** Thank you very much for your presentation. I have the first question for oral answer to the Minister for Regional Development at 2.00 pm. Can I have a nomination for Acting Chairperson in my absence for a few minutes?

**Mr Poots:** Mr Anderson.

**The Chairperson (Mr Irwin):** Sydney Anderson will take the Chair when I have to leave for a few minutes.

*Members indicated assent.*

**The Chairperson (Mr Irwin):** As I am aware, farmers can be fined under cross-compliance for noxious weeds. You say that you will remind your DRD colleagues. They do not get fined.

**Mr Galbraith:** That is very true.

**The Chairperson (Mr Irwin):** Farmers get fined, but DRD gets away with it.

**Mr Galbraith:** Our control is to do with the claim. There is land outside not being claimed, and, unfortunately, we do not have control of it; our DRD colleagues do.

**The Chairperson (Mr Irwin):** I am not sure how that stands legally. I think that you would have difficulty there.

**Mr Galbraith:** We control what we can control, and DRD has an area that it controls. If it comes through a whistle-blower or through any other channel that farmers are complaining or that the public is saying that x, y or z is growing here, we will certainly tell our DRD colleagues.

**The Chairperson (Mr Irwin):** They can decide whether or not they want to cut.

**Mr Galbraith:** They have an obligation and the responsibility, and we will continue to remind them of that responsibility.

**The Chairperson (Mr Irwin):** OK. In relation to GAEC 5 in regards to ploughing matches, can you explain in more depth what the change means in practice for ploughing matches?

**Mr Galbraith:** Yes, the ploughing matches concerned came to us on numerous occasions that, potentially, the requirement to have to put in a green cover would severely discourage these events from happening. We have been discussing it for a considerable time and have put in place a derogation or permission, so any person who wishes to organise one of these events will come to us. A relatively simple process has been put in place, and we have discussed the application form with them.

**The Chairperson (Mr Irwin):** We are aware of that.

**Mr Galbraith:** Hopefully, you are aware that we have reached a positive outcome. It will be a simple process: it means that we may or may not go out and we will give permission for an event to happen, provided that it meets certain criteria to make sure that they will try to minimise soil erosion in those sites. Once that is in place, and once they have completed the ploughing match, they will not have to put in a green cover until 15 January.

**The Chairperson (Mr Irwin):** Yes, and I hope that that process is made as simple as possible for the farmer.

**Mr Galbraith:** I think that it is.

**The Chairperson (Mr Irwin):** That is very important.

**Mr Galbraith:** We are at that point.

**The Chairperson (Mr Irwin):** I apologise; I have to leave. Mr Anderson will take over the Chair until I come back.

*(The Acting Chairperson [Mr Anderson] in the Chair)*

**Mr Poots:** On the issue of noxious weeds, the 1977 Order has legal standing, does it not?

**Mr Galbraith:** That is correct, yes.

**Mr Poots:** It is the law. Therefore the growing of noxious weeds is breaking the law.

**Mr Galbraith:** That is correct.

**Mr Poots:** So, you are saying that you have a system whereby you can punish farmers who break the law by taking money from them that would automatically have gone to them as a result of their single farm payments.

**Mr Galbraith:** I have to say that the law is not invoked very often. Generally, control is largely through cross-compliance; that is where the vast majority comes from. If those cases come to us, we can inspect and generally encourage and advise at that time. In the vast majority of cases, action is taken.

**Mr Poots:** The order is there for a reason: to stop the spread of noxious weeds across Northern Ireland and, consequently, farmers tend to manage noxious weeds. The problem in Northern Ireland lies with the Department that is not managing noxious weeds, a problem that is particularly bad this year. I am going to ask Minister Kennedy a question this afternoon on that very issue.

Responsibility does not lie with DRD, as such; it is supposed to look after maintenance. However, for the order, responsibility lies with the Department of Agriculture to ensure that DRD complies, just as it ensures that farmers comply with the order. I am not hearing the message being driven home by the Department of Agriculture that this is an important order that must be adhered to by whoever, including other Departments.

**Mr Galbraith:** We remind our colleagues annually. There are certain aspects that we promote on websites, and we give out fliers; we promote an understanding with our DRD colleagues, and, as I said, we remind them. We will take that point and consider what we can do to strengthen it.

**Mr Poots:** Has DARD ever taken a case against DRD for non-compliance with the regulations?

**Mr Galbraith:** Not that I am aware of.

**Mr Poots:** No, but DOE regularly took DRD, and particularly the Water Service, to court for non-compliance with environmental laws and regulations, so you do not see a difference being made there. It happened for quite a number of years. In more recent years, Northern Ireland Water in particular has been taken to court as an agency of the Department for Regional Development for not complying. What we are saying is that Roads Service, as an agency of the Department for Regional Development, is not complying and DARD needs to take a tougher stance to ensure that noxious weeds are not being spread across the country and consequently damaging the agriculture industry.

**Mr Galbraith:** I take your point. We get inquiries about that over the year, although the numbers are not large. We try to encourage people to comply, and, generally, when we do that, they do. The issue that we often find is with regard to waste ground etc. That is the difficulty that we always have. Apart from that, we are, I believe, generally reasonably successful in changing attitudes rather than going down the legal route.

**Mr Poots:** Thank you. I am glad that you have now talked to the scientists about the ploughing of potato land; I think that you should have done so earlier. When Commissioner Hogan was here, I raised this issue with him, and he said that, when we hear about red tape, that is the sort of issue that

he wants to know about. It is evident that that is not good practice. We depend on the Department to remind the Commission of things that it is being asked to implement that do not make sense. Leaving potato land to become waterlogged because the drainage on potato land is particularly poor is not good science or good agriculture. I therefore welcome the messages that I am hearing today.

I want to clarify the message that I think I am picking up, Mr Chairman. Say you plough your potato land and you dig your potatoes at the end of October, which is a very common time for digging potatoes. You may plan to plant a grass crop because farmers like to plant grass after potatoes, because potatoes clean the weeds out of land very well, as opposed to planting winter wheat, which you could plant at that stage without a problem. It is then allowable for the farmer to plough the ground at the first appropriate time for planting grass, perhaps in the first week of November, but the actual green cover may not be planted until April of next year.

**Mr Galbraith:** The proviso is if conditions are not favourable. If they are not favourable, that is correct. As soon as they are favourable, the green crop can be put in.

**Mr Poots:** General advice is that you do not plant grass seed after 16 October, because you need warmth in the ground to grow grass even more than for winter cereals. I am getting clearly enough what is being said: if the provisions allow it, you can; if the provisions do not allow it, and your plan is to plant grass seed, then you can do so at the first appropriate opportunity.

**Mr Galbraith:** If the conditions do not allow for green covers, and generally it is due to weather or waterlogging, you can wait until the conditions are favourable. Otherwise, you could be breaching another aspect of cross-compliance.

**Mr Poots:** But if you are ploughing in the first or second week of November, you would know that you were not going to be reseeded in the third week of November — the crop would not grow.

**Mr Galbraith:** That is a fair point. However, you should be able, if conditions were favourable, to put in a green crop at that time.

**Mr Poots:** Yes, you could put in a crop of winter wheat. Probably not winter barley.

**Mr Galbraith:** Yes.

**Mr Poots:** You are limited in what you can follow up with, particularly given the later harvest.

**Mr Galbraith:** That is exactly right.

**Mr Poots:** If the policy was implemented sensibly, I think that we could live with it.

**The Acting Chairperson (Mr Anderson):** I draw your attention to the paragraph in your covering letter on regulatory impact. You said that you expect the revised standards to produce easements and you then go on to say that there would be a minimal conditional cost. What easements do you expect to gain from that statutory rule?

**Mr Ken Lavery (Department of Agriculture and Rural Development):** The easements that we envisage are for the very reasons that people have lobbied us to bring these changes into place. There are farmers who want to cut hedges in the last two weeks of August so that they can take forward planting. The easement that we have introduced permits that. Moreover, as regards minimum soil cover, the fact that we no longer require residues to be left over the winter and that ploughing can now take place also represents an easement.

**The Acting Chairperson (Mr Anderson):** You talk about the minimal additional costs. The cost will be minimal.

The only other issue that I have — it is a small one — is being allowed to cut a hedge and applying for a derogation to do so from 15 August to 31 August. I think that somebody asked it last time, but when is the latest point to apply for that derogation?

**Mr Galbraith:** We hope that farmers will apply 10 days before they decide to cut, which would give us time to analyse the application. Once we receive an application, there will be a maximum of 10 days before a decision is given to the farmer.

**The Acting Chairperson (Mr Anderson):** OK. That is that clarified.

*(The Chairperson [Mr Irwin] in the Chair)*

**Mr McMullan:** Is there an agreement between you and Roads Service that it will cut hedges along the road?

**Mr Galbraith:** Our stipulations are with regard to the period that we have discussed already. We can also cut in that period, should there be health-and-safety reasons. Generally, farmers are allowed to cut their hedges on the road side or verges etc for sight lines. Essentially, farmers can cut, if there is a health and safety reason, at any time of the year.

**Mr McMullan:** If you have a bush or a tree — whatever you want to call it — on your ground and the branches are over the fence, who owns that?

**Mr Galbraith:** Who owns the —

**Mr McMullan:** Who is responsible for that?

**Mr Galbraith:** You would need to ask someone more intelligent than I. We can enquire and find that out for you. It is the overhang —

**Mr McMullan:** Yes. With the cutbacks and everything else and the fact that there is no money to do this, that and the other, roads are getting narrower, believe it or not. There is an issue about who owns the leafage or foliage — whatever you want to call it — that is over on to the road. Who is responsible for that?

**Mr Galbraith:** I have a view, but we would need to clarify exactly. We will get back to you on that, if that is OK.

**Mr McMullan:** Good man. Thank you.

**The Chairperson (Mr Irwin):** Thank you for your presentation. I apologise for having to leave.