

NB: Unofficial translation
Ministry of Agriculture and Forestry

Government Decree
on Monitoring of Certain Statutory Management Requirements of Cross-Compliance Concerning Nature Conservation
(878/2005)

Chapter 1 — General provisions

Section 1 — *Scope of application and purpose*

- (1) This Decree applies to the controls referred to in Article 25 of Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1451/2002, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001, hereinafter the *Single Payment Regulation (SPS Regulation)* of certain statutory management requirements pertaining to environmental conservation, hereinafter *cross-compliance*, referred to in Article 4 of the SPS Regulation as well as in Council Directive 79/409/EEC on the conservation of wild birds and Council Directive 92/43/EEC on the conservation of biotypes and of wild fauna and flora referred to in Annex III to the SPS Regulation.
- (2) Monitoring of cross-compliance is implemented as a part of the integrated administration and control system, hereinafter the *integrated system*, referred to in Chapter 4 of the SPS Regulation. The integrated system is provided for in Commission Regulation (EC) No 796/2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, hereinafter the *Implementation Regulation*.

Section 2 — *Definitions*

In this decree:

- 1) *intentional non-compliance with the provisions* means intent as defined in Chapter 3, section 6 of the Penal Code (39/1889);
- 2) *non-compliance* means non-compliance with the provisions due to deficient action on the part of the payment applicant;
- 3) *repeated non-compliance* means the definition given in Article 41(a) of the Implementation Regulation;
- 4) *extent of non-compliance* means the definition given in Article 41(b) of the Implementation Regulation;
- 5) *severity of non-compliance* means the definition given in Article 41(c) of the Implementation Regulation; and
- 6) *permanence of non-compliance* means the definition given in Article 41(d) of the Implementation Regulation.

Chapter 2 — Checks regarding the eligibility criteria for payments

Section 3 — *Coordination of checks*

The Ministry of Agriculture and Forestry acts as the coordinating authority under Article 23(3) of the SPS Regulation.

Section 4 — *Monitoring*

- (1) In accordance with Article 42(2) of the Implementation Regulation, Employment and Economic Development Centres conduct the checks related to certain statutory management requirements as specified in this Decree.
- (2) Each Employment and Economic Development Centre compiles the monitoring data for individual objects of checks concerning cross-compliance in its territory as provided for in this Decree and determines the results of cross-compliance control as separately provided for in the Implementation Regulation.

Section 5 — *Administrative checks*

With respect to the statutory management requirements of cross-compliance referred to in this Decree, administrative checks as provided for in Article 43 of the Implementation Regulation may be conducted in addition to on-the-spot checks.

Chapter 3 — **On-the-spot checks**

Section 6 — *Minimum number of checks*

By virtue of Article 44(1) of the Implementation Regulation, at least 1 per cent of the farms which applied for direct support must be checked with respect to the statutory management requirements of cross-compliance.

Section 7 — *Selection of a check sample*

In addition to Article 44 of the Implementation Regulation, the provisions of Article 45(1-2) and Article 45(3)(2)(b) of the Regulation must be observed in the selection of farms to be included in the checks.

Section 8 — *Elements of on-the-spot checks*

- (1) The farms selected for a check by virtue of Article 46(1) and Article 47(1) of the Implementation Regulation must be checked in the manner provided for in Title III, Chapter III, Section III of the Implementation Regulation.
- (2) Efforts should be made to conduct checks related to certain statutory management requirements specified in this Decree on farms chosen for a check by virtue of section 7 above at the same time as monitoring of the entire farm.

Section 9 — *Report on the checks*

- (1) The Employment and Economic Development Centre must prepare a report on checks in the areas referred to in Article 4 of the SPS Regulation in accordance with Article 48(1-2) of the Implementation Regulation.
- (2) The report must be prepared within the time period specified in Article 48(3)(1) of the Implementation Regulation.

Section 10 — *Monitoring of agricultural land located in a Natura 2000 area*

All farms that are subject to monitoring with respect to good agricultural and environmental requirements of cross-compliance and the management requirements pertaining to the

environment with agricultural land included in the Natura 2000 network under either the Habitats Directive (92/43/EEC) or the Birds Directive (79/409/EEC) will be monitored to ensure that the nature values on the basis of which the land in question was selected for inclusion in the Natura 2000 network have not been significantly weakened.

Section 11 — *Monitoring of protected species*

- (1) All farms subject to monitoring with respect to good agricultural and environmental requirements of cross-compliance and the management requirements pertaining to the environment will be monitored to ensure that the protection provisions of the Nature Conservation Act (1096/1996) for flora under Annex IV(b) of the Habitats Directive (92/43/EEC) are observed.
- (2) The monitoring referred to in subsection 1 above ensures that the protection provisions for birds under the Nature Conservation Act and the Hunting Act (615/1993) have been observed and that habitats important for the conservation of birds have not been destroyed or weakened.

Chapter 4 — **Sanctions**

Section 12 — *Sanctions due to neglect*

- (1) If the conditions and requirements referred to in this Decree are not complied with, the direct payments referred to in the SPS Regulation shall be reduced as provided for in Article 7 of the SPS Regulation and in Article 66 of the Implementation Regulation.
- (2) The sanction for neglect of these conditions or requirements will be 3 per cent of the total amount of direct payments under Article 66(1) of the Implementation Regulation. In an individual case, however, the reduction may be 1 per cent of the total amount of direct payments if the neglect on the whole must be considered minor, or 5 per cent of the total amount of direct payments if the neglect on the whole must be considered more serious than usual.
- (3) The sanction can be waived in cases where Article 48(1)(c)(2) of the Implementation Regulation applies.

Section 13 — *Sanctions due to intentional non-compliance*

- (1) The sanction for intentional non-compliance as defined in section 2(1)(1) of this Decree will be applied as laid down in Article 67 of the Implementation Regulation.
- (2) The sanction for intentional non-compliance will be 20 per cent of the total amount of direct payments under Article 67(1) of the Implementation Regulation.
- (3) In an individual case, however, the sanction on the total amount may be reduced to a minimum of 15 per cent in cases where the intentional non-compliance on the whole must be considered minor, or increased to a maximum of 100 per cent in cases where the intentional non-compliance on the whole must be considered more severe than usual.
- (4) If intentional non-compliance clearly relates to a particular aid scheme or is particularly extensive, severe, prolonged or repeated, a sanction will be applied as laid down in Article 67(2) of the Implementation Regulation.

Section 14 — *Determining sanctions*

- (1) The repeated nature, extent, severity and permanence of non-compliance as defined in section 2(1)(3-6) of this Decree must be taken into account in determining sanctions.
- (2) If several cases of non-compliance on the part of a payment applicant are found in monitoring, a sanction will be applied as laid down in Articles 66 and 67 of the Implementation Regulation.

Chapter 5 — **Miscellaneous provisions**

Section 15 — *Requirement of notification*

Employment and Economic Development Centre must notify the competent Regional Environment Centre of any non-compliance with the statutory management requirements referred to in sections 10 and 11 above found in the checks.

Section 16 — *Appeal procedure*

- (1) The results of monitoring cross-compliance as referred to in this Decree may not be appealed separately. Appeal is possible only in connection with main proceedings as referred to in subsection 2 below.
- (2) A payment decision taken by a municipal rural business authority may be appealed as provided for in section 10 of the Act on the Procedure to Be Followed in Managing Tasks in Support of Rural Business (1336/1992).

Section 17 — *Application of the legislation on controls*

The provisions of section 8 of Act 1336/1992 and Chapter 2 of the Act on Implementation of the Common Agricultural Policy of the European Community (1100/1994) will apply to the conducting of checks.

Section 18 — *Entry into force and transitional provisions*

- (1) This Decree will enter into force on 17 November 2005.
- (2) Measures necessary for the implementation of this Decree may be undertaken before its entry into force.