



Briefing Note

Electronic Identification (EID) and Cross Compliance

The Scottish Government has recently failed in its attempt to achieve concessions to European Regulation 21/2004 ("the Regulation") and as a result, from 1st January 2010, gradual changes will be introduced to the method of identification of goats and sheep in the Scottish farming industry.

Following the introduction of the Regulation, each goat and sheep farmer in Scotland will be required to tag their animals electronically and to keep a record of each animal's identity every time they are moved from the holding. These new identification obligations will form part of the Statutory Management Requirements for the purpose of Cross Compliance.

The increases in cost to and workload of Scottish farmers caused by the implementation of the Regulation have led to some sectors of the industry questioning the workability of the Regulation in Scotland. These concerns have been voiced predominantly by Scottish hill farmers but the Regulations also affect landowners who let their land under seasonal grazing agreements or Short Limited Duration Tenancies for less than a year.

If the land is let for part of the year but the landowner seeks to be in "control" of the land on 15th May in order to claim Single Farm Payment then the European Commission stipulates that the land is farmed for the full year in such a way as not to breach the obligations of Cross Compliance. A seasonal tenant's breach of the Statutory Management Requirements or a failure to maintain the land in Good Agricultural and Environmental Condition or a breach of any other obligations of Cross Compliance could result in the payment of Single Farm Payment for the holding being reduced or even withheld.

The environment and the reduction of the spread of disease are matters which are currently uppermost in the thoughts of the Scottish Government and it is important for landowners to be aware of the cost of a seasonal tenant's breach of their obligations of Cross Compliance.

It is important for landowners letting land to seasonal tenants to not only ensure that there is a written agreement which contains an undertaking by the tenant to farm in such a way as will meet the standards required by Cross Compliance but also to be vigilant to the actions of their tenants and, if necessary, obtain an indemnity. The introduction of the Regulation is an additional burden to farmers but it is also a concern to landowners who should not turn a blind eye to the actions of their tenants.

This note is intended as a brief commentary of the impact of European Commission Regulation 21/2004 on seasonal tenancy arrangements. No responsibility can be accepted for any action taken in reliance on this note and specialist advice should be taken in every case. Turcan Connell is happy to provide such advice.

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