

New proposals of Finland on simplification of cross compliance

COMMISSION DELEGATED REGULATION (EU) NO 640/2014

Issue	Proposal and its justification/reasoning	Proposed amendment (includes current provision)
<p>Article 38(5)</p> <p>Influence of other controls</p>	<p>This Article 38(5) means that the control rate relating to cross compliance requirements is significantly larger than size of the control sample for cross compliance (usually 1 % and in the case of identification and registration 3%). E.g. in Finland the control sample for cross compliance relating to animal welfare of calves (SMR 11) (1 %) in 2015 had 135 farms. In addition to these, however, control for SMR 11 under Article 38(5) was made on 141 farms.</p> <p>In Finland there is an automatic system for many SMR requirements so that non-compliances found in controls other than those for cross compliance are notified to the competent control authority of cross compliance. Due to Article 38(5) this means lots of additional controls for cross compliance requirements. This cannot be the original aim of this Article.</p> <p>Obviously paragraph 5 also means more penalties for farmers, which adds to the negative feelings about cross compliance among farmers. They consider it unfair that so many controls for cross compliance requirements have to be made and penalties imposed in Finland.</p> <p>The systems for notifying the competent control authorities are different in the different Member States,</p>	<p>5. For the purposes of this Chapter, non-compliances shall be deemed to be ‘determined’ if they are established as a consequence of any kind of controls carried out in accordance with Article 96 of Regulation (EC) 1306/2013. this Regulation or after having been brought to the attention of the competent control authority or, where applicable, the paying agency, in whatever other way.</p>

	<p>which means that farmers are treated differently with regard to Article 38(5). Directives concerning cross compliance may also be implemented in slightly different ways, which may lead to unfair treatment of some EU farmers.</p> <p>In many cases non-compliances relating to cross compliance requirements are not extreme severe, but rather to be considered minor ones. E.g. as regards SMR 11 (animal welfare of calves) an early warning letter or penalty of 1, 3 or 5 % was determined for 132 farms of the 141 farms that were controlled under Article 38(5) in 2015. Only in 9 cases the penalty was more than 5 %.</p> <p>Article 38(5) also means a lot of extra work and costs for the administration. It also might give an incentive for Member States to create new administrative systems where non-compliances are not brought to the attention of the competent control authority. Obviously, there is no sense in this.</p> <p>Based on the above, paragraph 5 should be amended so that it only concerns the sample of cross compliance. This and separate sectoral controls of SMRs ensure that the requirements of cross compliance are sufficiently controlled.</p>	
<p>Article 39(1)</p> <p>Calculation of administrative penalties</p>	<p>The general rule of 3 % is not necessary and it also causes unfair situation because for the most part the reductions have to be 3 %. This is why this general rule should be deleted.</p>	<p>1. Where a non-compliance determined results from the negligence of the beneficiary, a reduction shall be applied. That reduction shall, as a general rule, be 1, 3 or 5 % of the total amount resulting from the payments and annual premiums indicated in Article 92 of Regulation (EU) No 1306/2013. Percentage shall be determined However, the paying agency may, on the basis of the assessment of the importance of the non-compliance provided by the competent control authority in the evaluation part of the control report taking into account the criteria referred to in Article 38(1) to (4), decide either to reduce that percentage to 1 % or to increase it to 5 % of the total amount referred to in the first subparagraph or, in In the cases where provisions relating to the requirement or standard in question leave a margin not to further pursue the non-compliance found or in the cases for which support is granted according to Article 17(5) and (6) of Regulation (EU) No</p>

		1305/2013, <u>it is possible</u> not to impose any reductions at all.
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HORIZONTAL REGULATION (EU) No 1306/2013: CROSS COMPLIANCE

Issue	Proposal and its justification/reasoning	Proposed amendment (includes current provision)
<p>Annex II</p> <p>SMRs of cross compliance</p>	<p>Part of this proposal was sent in January 2016.</p> <p>However, a compromise proposal for SMR 4 and new proposals for SMR 9 and SMR 11-13 have now been added.</p> <p>The system of cross compliance should be analysed and only the most important, relevant and clear SMRs should be maintained. At the moment there are far too many requirements, which cause a lot of bureaucracy for the farmers and administration.</p> <p>SMR 6-8: Regulations on identification and registration of animals: It is difficult for the farmers to understand that late entries to the computerized database for animals mean significant non-compliances with regard to the cross compliance conditions. It should be remembered that non-compliances with the rules of identification and registration of animals also cause reductions in coupled payments. This kind of double sanctions could be avoided by deleting SMR 6-8 from cross compliance.</p> <p>SMR 4: Regulation (EC) No 178/2002 (general principles of food law): This regulation is very general, which may lead to considerable differences in its implementation between the Member States. It could</p>	<p>The number of cross compliance requirements should be reduced. At least the following amendments should be done:</p> <p>SMR 6-8: Regulations on identification and registration of animals could be deleted.</p> <p>SMR 4: Regulation (EC) No 178/2002 (general principles of food law).</p> <p>If the total deletion of SMR 4 cannot be accepted at least the following changes should be accepted:</p>

	<p>be deleted from the requirements of cross compliance.</p> <p>If the total deletion of SMR 4 cannot be accepted at least the proposal is to limit the requirement in Article 14 and 15 to paragraphs 1 and 2 in Regulation (EC) N:o 178/2002 and instead of Article 17 (1) make a direct reference to substance legislation while taking into account following:</p> <p>We see that Article 3(1) of Regulation (EC) No 853/2004 should be deleted since the scope of article 3(1), Annex II and III mostly concerns food business operators at the processing stage. The requirements for premises and requirements in Chapter II A 1,2,3 and 4 are general requirements and their implementation are related to the infrastructure of milk producing farms, and they probably vary between Member States. This is why these requirements are problematic.</p> <p>When eggs are concerned, Regulation (EC) No 853/2004 Annex III, Section X, Chapter I (1), the relation between food safety and the storage of eggs at the producer's premises, is relevant. However, if there are other risk management options, like control of pathogens at the producer's premises, these other options could be an alternative for the general storage requirements.</p> <p>In Regulation (EC) No 852/2004, Annex I Chapter III Record keeping point 8 a, b, d and e and 9 a and c, we are open to suggestions how the requirements for record keeping could be even more concrete and easier to follow or if there is a possibility to delete some of the requirements.</p> <p>Furthermore Article 18 is suggested to be deleted since references to substance legislation are considered sufficient.</p>	<ol style="list-style-type: none"> 1. limit the requirement in Article 14 and 15 to paragraphs 1 and 2 2. instead of Article 17 (1) make references <u>directly</u> to substance legislation taking into account however the following: <ul style="list-style-type: none"> - delete Article 3(1) of Regulation (EC) No 853/2004 - delete Annex III section IX chapter II A points 1,2, 3 and 4 of Regulation (EC) No 853/2004 - instead of Regulation (EC) No 853/2004 Annex III, Section X, Chapter I (1) allow MSs to control national requirements relevant for food safety of eggs - consider specifying the record keeping points (Regulation (EC) No 852/2004, Annex I Chapter III 3. delete reference to Article 18
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	<p>SMR 9: According to Article the competent authority should control e.g. the requirements of Regulation 999/2001 Article 7 at least with 1 % frequency. Taking into account the substantial changed in epidemiologic situation of BSE disease during the past 15 years, there is no reason from the risk point of view to continue on-the-spot checks with the current frequency. We see that the point should be deleted.</p> <p>SMR 11: Annex of Council Directive 2008/119/EC 2. The quality of the installation of electrical circuits and equipment is controlled by competent authorities from completely different fields of expertise than animal welfare, i.e. fire fighting or rescue authorities. Such controls are not relevant in this context and they only create unnecessary administrative burden.</p> <p>SMR 13: Annex of Council Directive 98/58/EC</p> <p>Point 1: The provision is not precise enough, which makes it difficult to control in a harmonised way. It is too vague for defining what a sufficient number of staff may be. This figure also varies substantially depending on the housing system.</p> <p>Point 2: The provision is not feasible to control because it is difficult to control otherwise than by just asking the caretaker what she/he has done.</p> <p>Point 8. Paragraph 8 is difficult to give instructions for and control in a harmonised way. It is far too vague considering the vast variety of housing systems with differing construction design.</p> <p>Points 20-21: These provisions are far too vague in to define their exact content, making it difficult to give instructions on how to comply with or control them. Hence, most likely they are not controlled in a</p>	<p>SMR 9: Article 7 of Regulation (EC) No 999/2001 should be deleted.</p> <p>SMR 11: The following point of the Annex in Council Directive 2008/119/EC should be deleted in the cross compliance requirements.</p> <p>Until Community rules are laid down on the matter, electrical circuits and equipment must be installed in accordance with current national rules so as to avoid electric shocks.</p> <p>SMR 13:</p> <p>The following points of the Annex in Council Directive 98/58/EC should be deleted in the cross compliance requirements.</p> <p>Staffing</p> <p>1. Animals shall be cared for by a sufficient number of staff who possess the appropriate ability, knowledge and professional competence.</p> <p>Inspection</p> <p>2. All animals kept in husbandry systems in which their welfare depends on frequent human attention shall be inspected at least once a day. Animals in other systems shall be inspected at intervals sufficient to avoid any suffering.</p> <p>Buildings and accommodation</p> <p>8. Materials to be used for the construction of accommodation, and in particular for the construction of pens an equipment with which the animals may come into contact, must not be harmful to the animals and must be capable of being thoroughly cleaned and disinfected.</p>
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	<p>harmonised way in the Member States.</p> <p>Point 7: In this provision some flexibility is needed. On a farm where animals are in general kept in compliance with this provision even minor non-compliances (e.g. in minimum floor area per animal) can lead to disproportionate sanctions. There could be flexibility e.g. in terms of the maximum number or percentage of pens with minor non-compliances compared to the total number of pens on the farm. Sanctions should be targeted to non-compliances of a proportionate scale.</p>	<p>Breeding procedures</p> <p>20. Natural or artificial breeding or breeding procedures which cause or are likely to cause suffering or injury to any of the animals concerned must not be practised.</p> <p>This provision shall not preclude the use of certain procedures likely to cause minimal or momentary suffering or injury, or which might necessitate interventions which would not cause lasting injury, where these are allowed by national provisions.</p> <p>21. No animal shall be kept for farming purposes unless it can reasonably be expected, on the basis of its genotype or phenotype, that it can be kept without detrimental effect on its health or welfare.</p>
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