

Outline of How Scheme Requirements Go Beyond Relevant Mandatory Standards

1. How Schemes comply with relevant existing legislation

Legislation	Requirements of the legislation	How we meet these legislative requirements at a national level	How we meet these legislative requirements at a Scheme/local level
<p>Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds</p>	<p>The 'Birds Directive' protects all wild birds, their nests, eggs and habitats within the European Community. Under it, we have a responsibility to classify Special Protection Areas (SPAs) to protect birds which are rare or vulnerable in Europe, as well as all migratory birds which are regular visitors.</p> <p>In Scotland Special Protection Areas (SPAs) are given legal protection by the Habitats Regulations. The Habitats Regulations ensure that any plan or project that may damage an SPA - for example, a proposal that might disturb the geese for which an SPA is classified - is first assessed and can only go ahead if certain strict conditions are met (Regulation 48). This assessment procedure is known as Habitats</p>	<p>The Habitats Regulations 1994 🔗 (as amended in Scotland) implement the species protection requirements of the Habitats Directive in Scotland on land and inshore waters (0-12 nautical miles).</p> <p>Wildlife and Countryside Act 1981 (as amended in Scotland) helps to implement the species protection requirements of the Habitats Directive in Scotland on land by restricting the means of killing or taking wild birds.</p> <p>http://www.snh.gov.uk/protecting-scotlands-nature/protected-species/legal-framework/wca-1981/</p>	<p>Each Scheme is subject to a Habitats Regulations Appraisal and it must satisfy the requirements of the Regulations.</p> <p>We highlight the licencing requirements of the Wildlife and Countryside Act in the Scheme literature. Any applications to shoot Annex 1 species of geese (including Greenland Barnacle and White-fronted geese and Svalbard Barnacle geese) are considered on their own merits.</p> <p>The issue of licences under Section 16 of the Wildlife and Countryside Act restricts the</p>

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	<p>Regulations Appraisal, and the first part of it is called 'appropriate assessment'.</p> <p>An appropriate assessment is undertaken to determine whether a plan or project will have an adverse effect on site integrity and the species for which it was classified. Projects cannot go ahead if they have an adverse effect on site integrity unless they are of overriding public interest.</p> <p>Under regulation 48 of the 1994 Habitats Regulations (or regulation 61 of the 2010 Regulations in respect of reserved matters), the competent authority has a duty to:</p> <ul style="list-style-type: none"> • determine whether the proposal is directly connected with or necessary to site management for conservation; <p>and, if not,</p> <ul style="list-style-type: none"> • determine whether the proposal is likely to have a significant effect on the site either individually or in combination with other plans or projects; <p>and, if so, then</p> <ul style="list-style-type: none"> • make an appropriate assessment of the implications (of the proposal) for the site in view of that site's conservation objectives. <p>The Wildlife and Countryside (Scotland) Act (as amended) also helps to enact the Habitats</p>		<p>number of geese that are shot or taken (including during the closed season for quarry species).</p>

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	Regulations. It restricts the means of killing or taking wild birds.		
<p>Good Agricultural and Environmental Conditions (GAEC): standards for good agricultural and environmental condition of land referred to in Chapter I of Title VI of Regulation (EU) No 1306/2013 are established at national level</p> <p>The legislative base for Cross Compliance is:</p> <p>European Parliament and Council Regulation (EU) No 1306/2013</p> <p>Commission Delegated Regulation (EU) No 640/2014</p> <p>Commission Implementing Regulation (EU) No 809/2014</p>	<p>The domestic legislation defines Good Agricultural and Environmental Condition (GAEC) and 'Statutory Management Requirements' (SMRs) in Scotland as well as providing enforcement and inspection powers for inspectors.</p> <p>GAEC requirements are listed in Annex 1.</p>	<p>Scottish Statutory Instrument: The Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014</p> <p>Domestic Legislation SSI 2014/325</p>	<p>Beneficiaries are not paid through the Goose Schemes to meet or exceed these requirements.</p> <p>Beneficiaries are expected to continue to meet these standards as part of their normal farming practice and a clause to this effect is included in their management agreements.</p>

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<p>Minimum requirements for fertilisers and plant protection products</p>	<p>Minimum requirements for fertilisers and plant protection products referred to in Article 28 of Chapter I of Title III of Regulation (EU) No 1305/2013 are defined at national level</p> <p>Minimum Requirement for Pesticides</p> <ul style="list-style-type: none"> • The Plant Protection Products Regulations 2011 (SI 2011 No 2131) and the Plant Protection Products (Sustainable Use) Regulations 2012 (SI 2012 No 1657). • Under UK legislation the Integrated Pest Management general principles are considered as voluntary Prevention and/or suppression of harmful organisms is to be achieved or supported and pest species managed in accordance with the principles of Integrated Pest Management and the pesticide regulation and directive. 	<p>In the UK professional pesticide users must:</p> <ul style="list-style-type: none"> > have a recognised certificate, including from 26 November 2015, those operating under grandfather rights; > take reasonable precautions to protect human health or the environment; > confine pesticide application to the target area; > ensure the amount used and frequency of application are as low as reasonably practicable in specific areas; > give preference to products which protect water supplies; > adhere to rules under a new aerial spraying permit system; > take reasonable precautions in relation to storage, handling and disposal of pesticide products to protect human health or the environment; > ensure pesticides are stored in areas that are constructed in a way as to prevent unwanted releases; > by 26 November 2016 and at regular intervals owners of pesticide application equipment in use (except knapsack and handheld sprayers) must ensure it is inspected to certain 	<p>Beneficiaries are not paid through the Goose Schemes to meet or exceed these requirements.</p> <p>Beneficiaries are expected to continue to meet these standards as part of their normal farming practice and a clause to this effect is included in their management agreements.</p>

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		<p>timetables (the UK has designated a competent body to implement and administer the inspection scheme as required by the Directive); > after 26 November 2015, anyone purchasing a pesticide for professional use must ensure the product will be used by someone who holds an appropriate training certificate or who will be working under the direct supervision of someone who holds one; The UK also has a National Action Plan for the Sustainable Use of Pesticides (Plant Protection Products) as required by the Directive. There are further obligations in the UK Regulations on those who Store and Sell Pesticides.</p> <p>Record Keeping Record keeping of pesticide treatments has been a legal requirement in Scottish law since 2006 for those who produce food and animal feed under The Food Hygiene (Scotland) Regulations 2006 and The Feed (Hygiene and Enforcement) (Scotland) Regulations 2005. EC Regulation No 1107/2009,</p>	

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		<p>directly applicable in MS, requires professional users of pesticides to keep records for at least 3 years. Producers, suppliers, distributors, importers and exporters of pesticides must keep records for at least 5 years.</p> <p>The Plant Protection Products Regulations 2011, which apply to Scotland, England and Wales, include a provision for the enforcement of record keeping by identifying who is responsible for complying with the requirements and prohibitions in Regulation 1107/2009.</p> <p>The type of record keeping referred to in relation to IPM goes beyond this as it uses this information along with information on chemical monitoring to check the success of the applied plant protection practices.</p>	
<p>Other relevant national standards: relevant mandatory national standards are defined for the purpose of Article 28 of Chapter I of Title III of Regulation (EU) No 1305/2013</p>	<p>Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2001 Require persons with custody or control of a crop being made into silage, of livestock slurry or of certain fuel oil to carry out works and take precautions and other steps for preventing pollution of inland or coastal waters.</p>		<p>Beneficiaries are not paid through the Goose Schemes to meet or exceed these requirements.</p> <p>Beneficiaries are expected to continue to meet these standards as part of their normal farming</p>

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	The Water Environment (Controlled Activities) (Scotland) Regulations 2011, as amended		practice and a clause to this effect is included in their management agreements.
	The Diffuse Pollution General Binding Rules (GBRs) within Controlled Activity Regulations (CAR) based on widely accepted standards of good practice. These rules are aimed at controlling rural activities which pose a potential risk to the water environment. Such activities include the storage and application of fertilisers, storage and application of pesticides, keeping of livestock and cultivation of land.		Beneficiaries are not paid through the Goose Schemes to meet or exceed these requirements. Beneficiaries are expected to continue to meet these standards as part of their normal farming practice and a clause to this effect is included in their management agreements.
	The Water (Prevention of Pollution) (Code of Practice) (Scotland) Order 2005 Enacts the Code of Good Practice for the Prevention of Environmental Pollution from Agricultural Activity(PEPFAA)Code. The PEPFAA code includes chapters covering topics such as diffuse agricultural pollution, soil protection, slurry management, sheep dips, pesticides and waste management. Each chapter states the minimum regulatory standards and then goes onto describe relevant good practice which land managers are encouraged to adopt.		Beneficiaries are not paid through the Goose Schemes to meet or exceed these requirements. Beneficiaries are expected to continue to meet these standards as part of their normal farming practice and a clause to this effect is included in their management agreements.
	The Plant Protection Products (Sustainable Use) Regulations 2012 Enacts Directive 2009/128/EC		Beneficiaries are not paid through the Goose Schemes to

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	<p>on the Sustainable Use of Pesticides. These regulations are aimed at achieving the sustainable use of pesticides by reducing potential risks and impacts on human health and the environment. Key requirements of regulations include compulsory testing of application equipment, provision of training and certification of operators and advisors and controls on aerial spraying.</p>		<p>meet or exceed these requirements.</p> <p>Beneficiaries are expected to continue to meet these standards as part of their normal farming practice and a clause to this effect is included in their management agreements.</p>
	<p>Action Programme for Nitrate Vulnerable Zones Farmers operating in Nitrate Vulnerable Zones (NVZs) must follow rules set out in the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008 and amending 2013 Regulations. The rules aim to reduce the risk of nitrate pollution to ground waters. Key requirements of the NVZ regulations include record keeping, adhering to N application limits and observing closed periods when no N applications can be made.</p>		<p>Beneficiaries are not paid through the Goose Schemes to meet or exceed these requirements.</p> <p>Beneficiaries are expected to continue to meet these standards as part of their normal farming practice and a clause to this effect is included in their management agreements.</p> <p>The only Scheme which currently lies within an NVZ is the Strathbeg Goose Scheme.</p>
	<p>The Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006 Prevents the agricultural improvement of semi-natural habitats without an environmental impact assessment and the</p>		<p>Beneficiaries are not paid through the Goose Schemes to meet or exceed these requirements.</p>

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	<p>associated consent. Therefore farmers must not plough or fertiliser semi-natural habitats such as rough grazings, moorland or species rich grassland without consent from the relevant agricultural and environmental authority.</p>		<p>Beneficiaries are expected to continue to meet these standards as part of their normal farming practice and a clause to this effect is included in their management agreements.</p>
<p>Minimum requirements for fertilisers and plant protection products: minimum requirements for fertilisers and plant protection products referred to in Article 28 of Chapter I of Title III of Regulation (EU) No 1305/2013 are defined at national level</p>	<p>Minimum requirements for fertilisers and plant protection products referred to in Chapter I of Title III of Regulation (EU) No 1305/2013 are specified in the programmes;</p> <p>Minimum requirements for fertilisers and plant protection products: minimum requirements for fertilisers and plant protection products referred to in Article 28 of Chapter I of Title III of Regulation (EU) No 1305/2013 are defined at national level</p> <p>Minimum requirements for fertilisers and plant protection products referred to in Chapter I of Title III of Regulation (EU) No 1305/2013 are specified in the programmes;</p>		<p>Beneficiaries are not paid through the Goose Schemes to meet or exceed these requirements.</p> <p>Beneficiaries are expected to continue to meet these standards as part of their normal farming practice and a clause to this effect is included in their management agreements.</p>
<p>The Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015</p>	<p>Minimum activities. In Scotland the minimum activity on “agricultural land that is naturally kept in a state suitable for grazing or cultivation” is; A farmer must—</p>		<p>Goose Schemes do not require beneficiaries to have less than the minimum level of activity.</p> <p>Beneficiaries are expected to</p>

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	<p>(a) stock the land for a period or periods totalling not less than 183 days in any calendar year, in accordance with the minimum stocking density; or</p> <p>(b) carry out an environmental assessment of the land</p> <p>“minimum stocking density” means—</p> <p>(a) a stocking density of 0.05 livestock units per hectare; or</p> <p>(b) a stocking density of less than 0.05 livestock units per hectare where the farmer can demonstrate that such a stocking density is appropriate for the land by reference to—</p> <p>(i) the historic records kept in respect of the carrying capacity of the holding; or</p> <p>(ii) an environmental management agreement which the farmer has entered into with Scottish Natural Heritage(a) or an agri-environment commitment to which the farmer is subject under Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) etc(b) or under Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005(c).</p>		<p>continue to meet these standards as part of their normal farming practice and a clause to this effect is included in their management agreements.</p>

2. How Schemes exceed the requirements of existing legislation

Scottish Statutory Instrument: The Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014: Statutory Management Requirement: SMR 2: Land managers must comply with legislative requirements to protect wild birds, eggs and their nests in Special Protection Areas:

All Goose Schemes are underpinned by an appropriate assessment to ensure they comply with Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds (the 'Birds Directive'). The key activities participants undertake to safeguard wild geese and which go beyond the requirements of SMR2 are:

For Islay Scheme

- Provide undisturbed ground for goose feeding on at least 60% of each holding entered into the Scheme (the feeding zone)
- Both lethal and non-lethal scaring is permitted on the first- and second-year reseeds within the feeding zone and also from the buffer area
- Apply additional fertiliser throughout the growing season to make the sward attractive to geese between October and April

For Solway Scheme

- Provide undisturbed ground for goose feeding on the land entered into the Scheme under the feeding zone
- Use only 'quiet' methods to scare geese from the first-year reseeds within the feeding zone to encourage their establishment
- You may scare geese from any buffer area (grass, stubble, rape, 3rd year chicory/grass mix or cereals) using non-lethal 'quiet' methods so that you do not disturb geese from the neighbouring feeding zone
- Apply additional fertiliser in the spring and autumn to make the sward attractive to geese

For South Walls Scheme

- Provide undisturbed ground for goose feeding on the land entered into the Scheme under the feeding zone
- Use only 'quiet' methods to scare geese from the first-year reseeds within the buffer zone to encourage their establishment
- Apply additional fertiliser in the spring to make the sward attractive to geese

For Kintyre Scheme

- Provide undisturbed ground for goose feeding on the land entered into the Scheme
- Apply additional fertiliser in the spring and autumn to make the sward attractive to geese
- Use only 'quiet' methods to scare geese from the first-year reseeds within the buffer zone to encourage their establishment
- Use only 'quiet' methods and/or gas guns to scare geese from any fields which are not included in the feeding zone

- You are not permitted to undertake lethal scaring to shoot Greenland White-fronted geese

For Strathbeg Scheme

- Provide undisturbed ground for goose feeding on the land entered into the Scheme
- Scare geese from non-refuge fields throughout March and April to encourage them to feed on refuge fields within the Scheme
- Do not use audible scarers within 100 m of the feeding refuge
- Do not graze the land in March or April
- Do not fertilise the land in March or April

Detail of Good Agricultural and Environmental Conditions (GAEC)

Standards for good agricultural and environmental condition of land referred to in Chapter I of Title VI of Regulation (EU) No 1306/2013 are established at national level through The Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014 and they are detailed below:

GAEC 1 – Establishment of buffer strips along watercourses

1. You must not apply organic manure to any land which is situated within -
 - 10 metres of any surface water
 - 50 metres of any well, borehole, etc
2. You must not locate field heaps within –
 - 10 metres of any surface water
 - 50 metres of any well, borehole, etc
3. You must not apply chemical fertiliser to any land in a way that makes it likely the fertiliser will directly enter any surface water.
4. You must not apply nitrogen fertiliser to land if there is significant risk of nitrogen entering surface water, taking into account
 - the slope of the land, particularly if greater than 12 degrees
 - any ground cover
 - proximity to any surface water
 - weather conditions
 - the type of fertiliser being applied.
5. You must not cultivate or apply pesticides to land within 2 metres of the top of the bank of a surface water (pesticides can be applied to control scheduled weeds).

GAEC 2 - Abstraction of Water for Irrigation

You must comply with the authorisation procedures for abstracting water for irrigation. The procedures differ depending on the quantity of water involved:

1. If you abstract < 10 m³ of water each day you have to follow General Binding Rule 2 (GBR 2). Complying with GBR 2 means there is no requirement to contact the Scottish Environmental Protection Agency (SEPA) to register or apply for a licence.

GBR 2 rules:

- You must be able to demonstrate that the abstraction is always less than 10m³ in any one day (e.g. by measuring the rate of abstraction) or a means of demonstrating that the maximum volume that could be abstracted cannot exceed 10m³ in any one day.
 - Water leakage must be kept to a minimum by ensuring that all pipework, storage tanks and other equipment associated with the abstraction and the use of the water are maintained in a state of good repair.
3. If you abstract ≥10 and ≤50m³ of water each day you have to be registered with SEPA.
 4. If you abstract >50 and ≤2000m³ of water each day you have to hold a Simple Licence.
 5. If you abstract >2000m³ of water each day you have to hold a Complex Licence.

If you hold a licence it is important that you comply with all the conditions of the licence.

If you are not registered or do not hold the relevant licence you need to contact SEPA before you start abstracting water for irrigating crops.

GAEC 3 – Protection of Groundwater against pollution

You must –

- ensure that an authorisation is in place to allow or carry out a disposal of List I and List II substances, such as waste sheep dip and/or pesticide washings to land.
- You must comply with the conditions of any authorisation granted to allow or carry out a disposal of list I and list II substances, such as waste sheep dip and/or pesticide washings to land.
- You must not carry out or permit an activity which is likely to cause pollution of groundwater by an indirect or direct discharge of List I or List II substances from any non-disposal activity.

GAEC 4 – Soil and carbon stock, minimum soil cover

After harvest until the end of winter you must either retain the stubble of the previous crop or sow grass or sow another crop, unless –

- agronomic or weather conditions are such that cultivating land would be detrimental to the use for the land for agricultural production.
- the land is being prepared for sowing the subsequent crop.

Secondary cultivations and final seed beds must only be created very close to sowing.

GAEC 5 - Minimum land management reflecting site specific conditions to limit erosion

You must prevent the erosion of the banks of water courses, watering points and feeding areas from overgrazing or heavy poaching by livestock. In the case of late harvested crops where agronomic or weather conditions prevent the subsequent crop or a cover from being sown you must put in place (or have put in place) appropriate measures to limit soil erosion.

GAEC 6 – Maintenance of soil organic matter level through appropriate practices, including a ban on burning arable stubble except for plant health reasons.

After harvest you must not burn arable stubble except for plant health reasons.

You must comply with the requirements of the Muirburn code.

You must not plough rough grazing or semi natural land unless approved under EIA Landscape, minimum level of maintenance

GAEC 7 – Retention of landscape features

You must not remove or destroy the following landscape features without prior written consent:

- hedges
- dykes
- ditches
- watercourses
- ponds
- trees inline, isolated or in groups (exemption for trees that are dead, diseased, damaged or insecurely rooted and are likely to cause a danger by falling over)
- scheduled ancient monuments

You must not cut/trim/lay hedges or lop branches off trees during the bird nesting and rearing season starting 1 March and ending 31 August (exemption for road safety reasons).

You must not cultivate or apply fertilisers or pesticides to land within 2 metres of the centre line of a hedgerow (pesticides can be applied to control scheduled weeds).