

## A.L. 207 ta' l-2009

**ATT DWAR L-GHAJNUNA FINANZJARJA  
LILL-INDUSTRIJA TAL-BIEDJA U TAS-SAJD  
(KAP 146)**

**Regolamenti ta' l-2009 li jemendaw ir-Regolamenti dwar *Cross-Compliance* relatata ma' Applikazzjonijiet għall-Għajnuna mill-Unjoni Ewropea fir-rigward ta' l-Aġenzija tal-Pagamenti**

BIS-SAHHA tas-setgħat mogħtija bl-artikolu 7 tal-Att dwar l-Għajnuna Finanzjarja lill-Industrija tal-Biedja u tas-Sajd, il-Ministru għar-Rizorsi u Affarijiet Rurali bi qbil mal-Ministru tal-Finanzi, l-Ekonomija u Investiment għamel dawn ir-regolamenti li ġejjin:-

1. It-titolu ta' dawn ir-regolamenti hu Regolamenti ta' l-2009 li jemendaw ir-Regolamenti dwar *Cross-Compliance* relatata ma' Applikazzjonijiet għall-Għajnuna mill-Unjoni Ewropea fir-rigward ta' l-Aġenzija tal-Pagamenti u għandhom jinqraw u jiftiehmha haġa waħda mar-Regolamenti ta' l-2005 dwar *Cross-Compliance* relatata ma' Applikazzjonijiet għall-Għajnuna mill-Unjoni Ewropea fir-rigward ta' l-Aġenzija tal-Pagamenti minn hawn iżjed 'il quddiem imsemmija bhala "ir-regolamenti prinċipali".

Titolu u bidu fis-sehh.

A.L. 346 ta' l-2005.

2. Minnufih wara s-subregolament (3) tar-regolament 5 tar-regolamenti prinċipali, għandhom jiżiedu dawn is-subregolamenti ġodda li ġejjin:

Jemenda r-regolament 5 tar-regolamenti prinċipali.

"(4) It-tnaqqis jew l-esklużjonijiet li għalihom hemm riferenza f'dan ir-regolament għandhom jiġu deċiżi skond id-Definizzjoni tal-kriterji biex jiġu kalkolati t-tnaqqis u esklużjonijiet' imsemmija fl-Iskeda I.

(5) Skond l-Artikoli 3, 4 u 5 tar-Regolament KE Nru. 1782/2003, iż-żewġ Skedi li ġejjin għandhom japplikaw fl-interpretazzjoni u l-ftehim ta' dan ir-regolament:

(a) Skeda II - Lista ta' Atti u Regolamenti għat-taqsimha individwali ta' *Cross-Compliance* (Anness III, Regolament (KE) 1782/2003; u

(b) Skeda III - Kundizzjonijiet tajba għall-Agrikoltura u l-Ambjent (Anness IV, Regolament (KE) 1782/2003 - Rekwiżiti Statutorji Ġestjonali)."

3. Minnufih wara r-regolament 13 tar-regolamenti prinċipali għandhom jiżiedu dawn l-iskedi li ġejjin:

Iżid l-Iskedi I, II u III ġodda mar-regolamenti prinċipali.

"SKEDA I

[Regolament 5(4)]

Definizzjoni tal-kriterji biex jiġu kalkolati t-tnaqqis u l-eskluzjonijiet

Il-kriterji użati biex jiġu kalkolati s-sanzjonijiet li jkunu japplikaw wara li tkun ġiet skoperta li kien hemm nuqqas ta' konformità fir-rigward ta' intrapriżi u r-regoli tal-*cross-compliance*, huma stabbiliti skond l-Artikolu 6 tar-Regolament (KE) 1782/03, u l-Artikolu 65 tar-Regolament (KE) 796/04, *et seq.*

B'mod partikolari, leġislazzjoni komunitarja tipprovdi għall-applikazzjoni ta' sanzjonijiet 'fit-Taqsimiet ta' *Cross-Compliance*'.

It-taqsimiet ta' nuqqas ta' konformità li huma validi għas-sena 2009 u snin sussegwenti li għandhom jintużaw biex jiġu kalkolati nuqqasijiet eventwali huma dawn li ġejjin:

Anness III tar-Regolament 1782/03 (Rekwiziti Statutorji Ġestjonali)

- a. Ambjent;
- b. Saħħa pubblika, sigurtà, identifikazzjoni u reġistrazzjoni ta' annimali;
- ċ. Iġjene u ħarsien ta' l-annimali.

Anness IV tar-Regolament 1782/03

- d. Kundizzjonijiet tajbin għall-Agrikultura u l-Ambjent

Kriterji biex jiġi kalkolat ir-riżultat ta' *Cross-Compliance*

Wara din il-kategorija (a, b, ċ u d) ir-riżultati miksuba mill-ispezzjonijiet li jkunu japplikaw għal proprjetà agrikola jirrapprezentaw dawn l-erba' gruppi, u l-*cross-compliance* tal-proprjetà tirriżulta mis-somma totali miksuba.

Sanzjonijiet jkunu imposti fuq it-tnaqqis ta' għajjnuna, u meta jiġu applikati, dawn jinqas skond il-kriterji li ġejjin (Artikolu 41 tar-Regolament (KE) Nru. 796/2004).

- l-estensjoni ta' nuqqas ta' konformità: jiġi determinat billi wiehed izomm f'moħħu, b'mod partikolari, l-impatt tan-nuqqas ta' konformità innifsu li jista' jkollu hsara limitata għall-proprjetà agrikola jew barra minnha;
- is-severità ta' nuqqas ta' konformità: tiddependi, b'mod partikolari, fuq l-impatt tal-konsegwenzi tan-nuqqas ta' konformità skond il-

miri tal-htieġa jew skond ir-regolamenti;

- permanenza ta' nuqqas ta' konformità: tiddependi, b'mod partikolari, fuq it-tul ta' żmien li l-effett jibqa' u l-possibilità li jiġi eliminat l-effett permezz ta' miżuri raġjonevoli.

(1) Definizzjoni ta' l-indiċi ta' kontroll u s-serjeta tan-nuqqas ta' konformità

(a) Mill-ewwel ta' Jannar 2009, kull att jew regola li għandha x'taqsam mat-taqsimiet individwali ta' nuqqas ta' konformità jkunu suċċessivament spjegati skond:

(i) il-bażi ġuridika nazzjonali ta' l-att jew tar-regolament;

(ii) id-dmirijiet li jkollu jgħorr il-bidwi;

(iii) l-indiċi ta' verifika ta' l-obbligu għal kull nuqqas ta' konformità li jkun japplika għal-istess att jew regolament.

(b) Xi dettalji:

(i) nuqqas ta' konformità ta' importanza minuri, li għaliha azzjoni korrettiva tkun provduta taht ir-Regolament (KE) 146/08 li tbiddel u tinkludi r-Regolament (KE) 1782/03;

(ii) azzjonijiet korrettivi, li l-bidwi jintalab jiġġestixxi biex itemm l-effetti tan-nuqqas ta' konformità.;

(iii) il-livelli ta' l-indiċi ta' kontroll li bihom il-bidwi jkun ingħata twissija mingħajr ma din tkun imfissra bhala nuqqas ta' konformità;

(iv) il-kundizzjonijiet juru l-intenzjoni tan-nuqqas ta' konformità misjuba.

(ċ) Tifsir importanti bil-għan li jiġu applikati t-tnaqqis u l-eskluzjonijiet:

(i) Ripetizzjoni: fil-każ meta regolament jew att jiġu miksura darbtejn jew iktar drabi fil-perjodi stabbiliti bir-Regolament (KE) 796/04, il-livell ta' sanzjoni li jkun japplika jkun multiplikati bil-fattur ta' tlieta;

(ii) Azzjonijiet Korrettivi: l-Aġenzija tal-Pagamenti, fil-kapaċità tagħha bhala awtorità ta' kontroll li tkun kompetenti, u fuq il-bażi ta' dak li jinsab fid-dokument, għandha tnizzel id-disposizzjonijiet tagħha u għandha tistabilixxi l-pieni li jkunu japplikaw fir-rigward ta' disposizzjonijiet li jkunu ġew miksura. L-Aġenzija tal-Pagamenti

għandha għaldaqstant tistabbilixxi skond id-disposizzjonijiet tar-Regolament (KE) 146/08, li jemenda u jimmodifika r-Regolament (KE) 1782/03, il-mod u l-hin li fih tiġġestixxi l-azzjonijiet korrettivi li jikkorrispondu għal nuqqas ta' konformità li tkun kunsidrata ta' natura minuri.

(d) Biex wiehed jiċċekkja jekk inżammitx il-*cross-compliance*, ir-rapport ikun jinkludi:

- (i) ir-regola u x-xorta ta' azzjonijiet korrettivi;
- (ii) il-mod u l-hin li fihom dawn għandhom jitwettqu , u
- (iii) il-mod ta' kif jitwettqu l-istess azzjonijiet ikun iċċekkjat.

Għaldaqstant, kif diġà stipulat fid-deskrizzjoni ta' l-Atti u tar-Regolamenti, fil-każ li l-intrapriżi jew il-proprjetà agrikola jkunu mgharrfa biex jieħdu azzjoni korrettiva, u din ma ssirx fiż-żmien stipulat, in-nuqqas ta' konformità preċedenti jkun jitqies li jkun ġie ripetut u t-tnaqqis provdut f'kazijiet ta' ripetizzjoni jkun implimentat.

L-eżekuzzjoni ta' azzjonijiet korrettivi tkun giet imposta u tkun imħarsa mill-Aġenzija tal-Pagamenti skond kriterji stabbiliti, li tista' tassumi skond ix-xorta ta' l-azzjoni korrettiva preskritta, il-karattru ta' ċċekjar ta' dak il-hin jew iċċekjar amministrattiv.

(2) Skedi ta' applikazzjoni għal riduzzjoni ta' Taqsima ta' *Cross-Compliance*

Regolamenti tal-Komunità li għandhom x'jaqsmu mal-*cross compliance* jagħmlu distinzjoni bejn l-applikazzjoni ta' sanzjonijiet skond ix-xorta ta' nuqqas ta' konformità jekk:

- (a) saru b'negligenza, b'ripetizzjoni jew mingħajr (Artikolu 66 tar-Regolament (KE) 796/04) jew
- (b) b'intenzjoni (Artikolu 67 tar-Regolamenti (KE) 796/04)

Bħala riżultat, il-mod ta' kif jiġu kalkolati u applikati t-tnaqqis hu maqsum f''żewġ partijiet, b'konformità ma' din id-distinzjoni.

Il-bażi ta' kif wiehed jikkalkula il-perċentwali ta' tnaqqis ikun japplika għall-ammont totali ta' pagamenti diretti, kif stabbiliti fl-Artikolu 66(1) tar-Regolament (KE) 796/04.

- (a) Negligenza

Il-każijiet kollha ta' nuqqas ta' konformità li ma sarux b'intenzjoni huma

kunsidrati li saru b'negligenza.

Il-proċedura biex jiġi stabbilit il-kalkolu għas-sanzjoni li tkun tapplika hija kif ġej:

(i) għal kull Att u Regolament fit-taqsimi stabbilita ta' *cross-compliance* fejn hemm nuqqas ta' konformità, il-gravità ta' nuqqas ta' konformità trid tkun kwantifikata (baxx = 1; medju = 3, għoli = 5) skond l-estremità u l-permanenza (indici ta' kontroll);

(ii) ladarba it-tliet indici għal kull att jew regolament miksuri ikunu ġew kwantifikati, it-tliet valuri li jikkorrispondu jkunu miżjuda u ssir komputazzjoni matematika biex jinkiseb il-puntegġ medju (li jvarja minn 1-5);

(iii) għal kull taqsimi ta' *cross-compliance*, abbażi ta' dak li jkun ġie stabbilit bl-Artikolu 66(2) tar-Regolament (KE) 796/04, il-medja ta' punti li jkunu nkisbu għal kull nuqqas ta' konformità misjub huma miżjuda, u b'hekk twassal għal totalità ta' punti li tkun tirreferi għal dik it-taqsimi ta' *cross-compliance*.

Il-puntegġ li jkun inkiseb f'kull taqsimi ta' *cross-compliance* huwa mqabbel mat-tabella ta' figuri li ġejja:

Klassi	Puntegġ	Tnaqqis %
I	Indaqs jew iktar minn 1,00 u inqas minn 3,00	1%
II	Indaqs jew iktar minn 3,00 u inqas minn 5,00	3%
III	Indaqs jew iktar minn 5,00	5%

Ladarba t-tnaqqis ta' kull qasam ta' *cross-compliance* ikun imfisser, il-perċentwalijiet miksura ikunu miżjuda u mqabbla mal-limitu stabbilit bl-Artikolu 66 tar-Regolament (KE) 796/04, il-paragrafi 1, 2 u 3 li juru li t-tnaqqis massimu li jkun japplika għal nuqqas ta' konformità minhabba f'negligenza m'għandux ikun iżjed minn 5% ta' l-ammont totali ta' pagamenti u miżuri diretti taht l-Artikolu 2 tar-Regolament tal-Kunsill 1698/2005.

It-tnaqqis ta' perċentwali mfissra japplikaw għall-ammont totali ta' pagamenti diretti (Artikolu 2(d) tar-Regolament (KE) 1782/03) li jkunu saru jew waslu biex jitqassmu lil bidwi wara li ssir spezzjoni fuq bażi tat-talba li hu jkun preżenta jew ikun intenzjonat li jippreżenta matul is-sena kalendarja li fiha in-nuqqas ta' konformità misjuba tkun saret. (Artikoli 66 u 67 tar-Regolament KE 796/04).

Eżempju

Din l-intrapariża ta' trobbija ta' l-annimali għandha l-obbligu li timxi ma' dawn it-taqsimiet ta' *cross-compliance* u l-atti u mar-regolamenti rispettivi.

- Taqsima ta' *Cross-Compliance* 'ambjent': Atti A2 u A3
- Taqsima ta' *Cross-Compliance* 'sahha pubblika': Atti A6/A7/A8/A8a
- Taqsima ta' *Cross-Compliance* 'GAEC': Regolamenti 1.1; 2.1; 3.1; 4.1; 4.2; 4.4

Att jew Regolament	Riżultat ta' l-ispezzjoni		Kwantifikazzjoni ta' Kontroll ta' l-Indiċi			Punteġġ Mistenni [(e)+(s)+(p)]/3	Punteġġ Totali u Klassi	Tnaqqis
	Pozittiv	Negattiv	Estent (e)	Severità (s)	Permanenza (p)			

**Taqsima ta' *Cross-Compliance* 'Ambjent'**

A 2	✓		1	3	5	1	3	5		1	3	5		2.33	Klassi 1	1%
A 3		✓	1	3	5	1	3	5		1	3	5	7/3= 2,33			

**Taqsima ta' *Cross-Compliance* 'Sahha Pubblika'**

A6/7/8/8a	✓		1	3	5	1	3	5	1	3	5	0	0	0%
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**Taqsima ta' *Cross Compliance* 'Kundizzjonijiet Tajba għall-Agricoltura u għall-Ambjent'**

GAEC	✓	1	3	5	1	3	5	1	3	5	15/3=5,000	5,00 Klassi III	5%
Riduzzjoni Totali 6%													
Applikazzjoni ta' Art. 66 (3) Reg.(KE) 796/04													5% (l-iktar għoli)

(b) Negligenza ripetitiva

Ripetizzjoni ta' nuqqas ta' konformità tkun tidher meta l-istess regolament jew impenn jiġi miksur aktar minn darba matul sena jew sentejn suċċessivi għall-ewwel nuqqas ta' konformità (ara r-Regolament (KE) 796/04, artikolu 66(4) jew fil-każ meta l-bidwi / proprjetarju ta' l-art ġie msejjaħ biex jiehu azzjoni korrettiva u dan il-bidwi / proprjetarju ta' l-art ma jagħmilx dan fiż-żmien stipulat.

(i) L-Ewwel Ripetizzjoni

L-ewwel ripetizzjoni ta' nuqqas ta' konformità:

- iżżid il-livell massimu ta' sanzjonijiet li jkunu japplikaw skond il-*cross-compliance* minn 5% għal 15%, u
- jirriżulta f'multiplikazzjoni ta' sanzjonijiet li jkunu japplikaw f'dik is-sena b'fattur ta' tlieta (3).

## Eżempju

Jekk nerġghu niehdu l-eżempju ta' qabel, soġġett għal spezzjoni ġdida matul dik is-sena ta' wara l-ewwel spezzjoni.

Is-sitwazzjoni ta' l-intrapriża baqgħet xorta, għalhekk huwa xorta jrid isegwi l-istess regolamenti u intrapriži li hu jkun diġà ċċekkja qabel.

- Taqsima ta' *Cross-Compliance* 'Ambjent' Atti A2 u A3
- Taqsima ta' *Cross-Compliance* 'Sahħa Pubblika' Atti A6/A7/ A8
- Taqsima ta' *Cross-Compliance* 'GAEC'

Ir-riżultati ta' l-ispezzjoni huma kif jidhru fit-tabella:

Att jew Regolament	Riżultat ta' l-ispezzjoni		Kwantifikazzjoni ta' Kontroll ta' l-Indiċi			Punteġġ Mistenni [(e)+(s)+(p)]/3	Punteġġ Totali u Klassi	Tnaqqis
	Pozittiv	Negattiv	Estent (e)	Severità (s)	Permanenza (p)			

Taqsima ta' *Cross-Compliance* 'Ambjent'

A 2	✓		1	3	5	1	3	5		1	3	5		2.33	
A 3		✓ rep.	1	3	5	1	3	5		1	3	5	7/3= 2,33	Klassi 1	1%

Taqsima ta' *Cross-Compliance* 'Sahħa Pubblika'

A6/7/8/8a	✓		1	3	5	1	3	5	1	3	5	0	0	0%
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Taqsima ta' *Cross-Compliance* 'Kundizzjonijiet tajbin għall-Agrikoltura u Ambjent'

GAEC	✓ rep.	1	3	5	1	3	5	1	3	5	15/3=5,000	5,00	Klassi III	5%
Taqsima ta' <i>Cross-Compliance</i> 'Ambjent':											1% x 3 =	3% b'repetizzjoni		
Taqsima ta' <i>Cross-Compliance</i> 'Sahħa Pubblika':											0% =	0%		
Taqsima ta' <i>Cross-Compliance</i> 'GAEC':											5% x 3 =	15% b'repetizzjoni		
Riduzzjoni globali: (il fuq mill-massimu ta' 15%)												18%		
Applikazzjoni ta' l-Art. 66 (4) Reg. (KE) 796/04												15% (b'avviż)		

\*Nota: Fit-tabella l-atti jew ir-regolamenti li jkunu diġà nkisru qabel huma distinti.

Ir-ripetizzjoni għandha l-effett tagħha fit-taqsima ta' *cross-compliance* fejn hemm nuqqas ta' konformità.

Ir-riżultat tat-taqsimi ta' *cross-compliance* (f'dan l-eżempju għal GAEC u l-Ambjent), wara li jiġu applikati t-tabelli ta' evalwazzjoni kif murija hawn fuq huma multiplikati b'fattur ta' tlieta (3).

It-tnaqqis globali huwa t-total ta' tnaqqis li jriżulta minn taqsimiet ta' *cross-compliance* li jkunu qed jiġu spezzjonati fi hdan il-limitu ta' 15% (li fl-eżempju muri iktar 'il fuq ikun inqabeż).

Meta t-totali tat-tnaqqis jilhaq jew jaqbeż il-15%, it-tnaqqis applikat għandu jkun f'kull każ ta' 15%, iżda l-bidwi għandu jkun soġġett għal twissija li tiegħu l-forma ta' ammonizzjoni, li jekk jekk jerga' jkun hemm l-istess infrazzjonijiet, dawn l-istess nuqqasijiet ta' konformità jiġu kunsidrati bħala intenzjonati.

(ii) It-Tieni Ripetizzjoni

It-tieni ripetizzjoni ta' nuqqas ta' konformità misjuba matul is-sentejn wara l-ewwel sejba ta' nuqqas ta' konformità tkun tirriżulta f'multiplikazzjoni oħra tas-sanzjoni applikati fis-sena ta' qabel b'fattur ta' tlieta (3).

F'dan il-każ ukoll, iżda, il-limitu massimu tas-sanzjoni li jkun japplika jkun ta' 15%, u f'każ li dan il-limitu jintlaħaq jew jinqabeż, it-twissija deskritta hawn fuq għandha tiżdied mas-sanzjoni massima.

(c) Intenzjonalità

L-intenzjonalità għandha tkun attribwita għan-nuqqas ta' konformità misjuba meta:

1. wara ripetizzjoni ta' qabel meta l-bidwi diġà jkun gie mwissi skond id-disposizzjonijiet ta' l-Artikolu 66, punt 4, paragrafu 3 tar-Regolament (KE) 796/04;
2. l-indiċi ta' kontroll jeċċedu l-limiti li jkunu stabbiliti għal ċerti Regolamenti u Atti;
3. indikazzjonijiet ta' intenzjonalità huma misjuba mill-awtoritajiet kompetenti speċjalizzati (FVRD, MSA, MEPA, MRA, eċċ), matul testijiet li jkunu kunsidrati għall-Osservanza tar-Rekwiziti Statutorji Ġestjonali.

Azzjonijiet li għandhom jittiehdu fuq intenzjonalità ta' nuqqas ta' konformità:

- (a) l-Artikolu 67(1) tar-Regolament (KE) 796/04, fil-każ ta' nuqqasijiet ta' konformità intenzjonali, it-tnaqqis li jkun japplika għal għajjnuna diretta u miżuri taħt is-sezzjoni 2 tar-Regolament tal-Kunsill 1698/2005 fit-total tiegħu jkun stabbilit għal 20%,

(b) l-Artikolu 67(2) tar-Regolament (KE) 796/04, għas-sena msemmija ir-razzett ikun eskluż mis-sistema ta' benefiċċji li għalihom in-nuqqas ta' konformità jirreferi,

(ċ) fl-aħħarnett, f'każ ta' ripetizzjoni ta' nuqqas intenzjonat ta' konformità id-disposizzjonijiet ta' Artikolu 67(2), it-tieni paragrafu, tar-Regolament 796/04 jkunu japplikaw meta l-bidwi ta' dik il-proprjetà jkun tħalla barra mill-iskema ta' għajjnuna li għaliha in-nuqqas intenzjonat ta' konformità jkun għie ripetut għal din is-sena għal dik ta' wara.

(d) Akkumulazzjoni ta' nuqqasijiet ta' konformità ta' xorta differenti

Din il-parti tispjega l-mod ta' kif jiġu implimentati tnaqqis f'sitwazzjonijiet fejn diversi każi ta' nuqqas ta' konformità ta' xorta differenti jinstabu fl-intrapriża; nuqqas ta' konformità minhabba f'negliġenza, nuqqas ta' konformità kunsidrat bħala intenzjonali, nuqqas ta' konformità li jkun misjub għall-ewwel darba u nuqqas ta' konformità ripetut.

1. Nuqqasijiet ta' konformità Negligenti u Intenzjonali li jkunu saru minn bidwi / proprjetà

1.a. Żewġ nuqqasijiet ta' konformità misjuba f'zewġ taqsimiet differenti tal-*cross compliance*.

Kif isehh fil-każ ta' nuqqas ta' konformità minhabba f'negliġenza, l-effett ta' nuqqas ta' konformità jiżdied.

Eżempju 1.a

Nuqqas ta' konformità misjub:

- Nuqqasijiet ta' konformità minhabba f'negliġenza fit-taqsimi tal-*cross-compliance* - 'GAEC', f'liema taqsima jiġi applikat tnaqqis ta' 3%.
- Nuqqasijiet ta' konformità intenzjonali fit-taqsimi ta' *cross-compliance* - 'Ambjent', f'liema taqsima jiġi applikat tnaqqis ta' 20%.

It-tnaqqis li jirriżulta jkun:

3% (Negliġenza GAEC) + 20% (Intenzjonat għall-Ambjent) = 23%

1.b. Tlieta jew iktar każi ta' nuqqasijiet ta' konformità li jinsabu f'taqsimiet differenti ta' *cross-compliance*

Kif isehh? f'każi ta' nuqqasijiet ta' konformità minhabba f'negliġenza, l-effett tan-nuqqasijiet ta' konformità jiżdied dak il-ħin bl-applikazzjoni li tista' ssir tal-limitu ta' 5% fuq in-nuqqas ta' konformità minhabba f'negliġenza.

Eżempju 1.b

Nuqqasijiet ta' konformità misjuba

- Nuqqasijiet ta' konformità minhabba f'negliġenza fit-'taqsima ta' *cross-compliance* GAEC' f'liema taqsima tnaqqis ta' 3% jkun japplika.
- Nuqqasijiet ta' konformità minhabba f'negliġenza fit-'taqsima ta' *cross compliance* tal-harsien ta' l-Annimali' f'liema taqsima tnaqqis ta' 3% jkun japplika.
- Nuqqasijiet ta' konformità intenzjonati fit-'Taqsima ta' l-Ambjent' li għalih tnaqqis ta' 20% jkun japplika.

It-tnaqqis li jirriżulta jkun ta'

$3\%$  (Negliġenza GAEC) +  $3\%$  (Negliġenza Harsien ta' l-Għajjnuna Soċjali) =  $6\%$  imnaqqas għal  $5\%$  bl-applikazzjoni tal-limitu +  $20\%$  (Intenzjonat għall-Ambjent) =  $25\%$

1.ċ Tlieta jew iktar nuqqasijiet ta' konformità li nstabu f'żewġ taqsimiet differenti ta' *cross-compliance*.

F'dan il-każ, għat-taqsima ta' *cross-compliance* li fiha n-nuqqasijiet ta' konformità minhabba f'nuqqasijiet ta' konformità ta' negliġenza u intenzjoni, jkunu ġew kunsidrati flimkien bħala nuqqas ta' konformità wiehed, (skond l-Artikolu 66(2) tar-Regolament 796/04)

Eżempju 1.ċ

Nuqqasijiet ta' konformità misjuba

- Żewġ każi ta' nuqqas ta' konformità fit-taqsima ta' *cross-compliance* GAEC, wiehed minhabba f'każ ta' negliġenza, f'liema taqsima tnaqqis ta' 3% ikun japplika u wiehed intenzjonat tnaqqis ta' 20% ikun japplika.
- Nuqqas ta' konformità minhabba f'negliġenza fit-taqsima ta' *cross-compliance* Harsien ta' l-Annimali f'liema taqsima tnaqqis ta' 3% jkun japplika.

It-tnaqqis li jirriżulta jkun ta':

$(\text{Negliġenza GAEC}) + (\text{Intenzjonalità GAEC}) = \text{infrazzjoni intenzjonali} = 20\% + 3\%$  (Negliġenza Ambjentali) =  $23\%$

2. Tnejn jew iktar ripetizzjonijiet ta' nuqqas ta' konformità attribwita mill-istess bidwi / proprjeta

## Eżempju 2

## L-Ewwel Sena

- Nuqqas ta' konformità mar-Regolament 4.2 minhabba f'negliġenza: tnaqqis ta' 3%
- Nuqqas ta' konformità ma' l-Att 2 minhabba f'negliġenza: tnaqqis ta' 5%

Tnaqqis li jirriżulta =  $3 + 5 = 8\%$ , li jitnaqqas għal 5% (il-limitu).

## It-Tieni Sena

- Nuqqas ta' konformità mal-GAEC 2 minhabba f'negliġenza - tnaqqis ta' 3%
- Nuqqas ta' konformità ma' l-Att A2 minhabba f'negliġenza - tnaqqis ta' 5%

Bis-saħħa ta' l-Artikolu 66(4) tar-Regolament 796/04, ikun hemm:

- Nuqqas ta' konformità mal-GAEC minhabba f'negliġenza - tnaqqis ta'  $3 * 3\% = 9\%$
- Nuqqas ta' konformità ma' l-Att A2 minhabba f'negliġenza - tnaqqis ta'  $3 * 5 = 15\%$

Tnaqqis li jirriżulta =  $9 + 15 = 24\%$ , li jitnaqqas għal 15% (il-limitu).

Ladarba tkun inqabżet ir-rata ta' 15% l-intrapriża trid tkun infurmata li kull ripetizzjoni ta' nuqqas ta' konformità li tkun misjuba tkun kunsidrata bħala li tkun saret b'intenzjonalità.

3. Żewġ nuqqasijiet jew aktar ta' konformità li jsiru b'intenzjonalità fl-istess intrapriża.

3.a Żewġ nuqqasijiet intenzjonati ta' konformità jew aktar fl-istess taqsima ta' *cross-compliance*

## Eżempju 3.a

Nuqqas ta' konformità li jkunu nstabu

- Nuqqas ta' konformità intenzjonat li jkun sar ma' SMR 2
- Nuqqas ta' konformità intenzjonat li jkun sar ma' SMR 3

F'dan il-każ in-nuqqasijiet ta' konformità jiġu kunsidrati bħala nuqqas ta'

konformità wiehed, skond l-Artikolu 66(2)

Tnaqqis li jirrizulta = 20%

3.b Tnejn jew iktar nuqqasijiet ta' konformità intenzjonati li jsiru f'taqsimiet differenti ta' *cross-compliance*

Eżempju 3.b

Nuqqasijiet ta' konformità misjuba

- Nuqqas ta' konformità intenzjonat li jkun sar mal-GAEC
- Nuqqas ta' konformità intenzjonat li jkun sar ma' SMR A4

Tnaqqis li jirrizulta = 20% (Intenzjonalità GAEC) + 20% (Intenzjonalità Ambjentali) = 40%

4. Żewġ ripetizzjonijiet ta' nuqqasijiet ta' konformità jew aktar intenzjonati li jkunu saru għall-istess bidwi / proprjetà

Fil-kaz ta' nuqqas intenzjonat ta' konformità li jiġi ripetut, id-disposizzjonijiet ta' l-Artikolu 67(2), paragrafu tnejn, tar-Regolament KE 796/04 jkunu japplikaw, meta l-intrapriża tiġi eskluża mill-iskema jew mill-iskemi ta' għajnuna li għalihom in-nuqqasijiet ta' konformità intenzjonali li jkunu ripetuti jkunu jirreferu kemm għal din is-sena kemm għas-sena ta' wara.

5. Applikazzjoni ta' sanzjonijiet fuq rakkomandazzjonijiet magħmula minn awtoritajiet kompetenti

L-Artikoli 48 u 65 tar-Regolament 796/2004 jipprovdu li nuqqasijiet ta' konformità li jkunu nġiebu għall-attenzjoni ta' l-awtoritajiet kompetenti ta' kontroll, għandhom ikunu soġġetti għall-applikazzjoni ta' tnaqqis bl-istess mod bħal dawk li jkunu jinstabu waqt spezzjonijiet li jsiru fuq il-post skond ma hemm fl-Artikolu 44 ta' l-istess regolament.

B'mod partikolari, ladarba l-Aġenzija tal-Pagamenti hija wkoll l-awtorità ta' kontroll kompetenti u tiegħu hsieb ukoll l-għajnuna li tingħata, jekk ikun hemm każijiet flagranti ta' nuqqas ta' konformità mar-regolamenti tal-GAEC jew mar-Rekwiziti Statutorji Ġestjonali, jiġu applikati twissija adatta li tingħata bl-applikazzjoni tas-sanzjonijiet adatti jkunu provduti.

Bl-istess mod, jekk l-awtoritajiet kompetenti li għandhom x'jaqsmu ma' l-għarfien u mal-harsien ta' l-annimali (servizzi veterinarji) juru każijiet serji ta' nuqqas ta' konformità l-proċeduri ta' sanzjoni adatti għandhom jiġu applikati b'mod analogu, bħal fil-każijiet ta' kontroll għall-eligibilità.

SKEDA II

[Regolament 5(5)]

Lista ta' Atti u Regolamenti għall-qasam individwali ta' *cross-compliance*

Anness III tar-Regolament 1782/03 (Politika ta' Ġestjoni Obligatorja)

Ambjent

- Att A1 - Direttiva 79/409/KEE, adatta għal konservazzjoni ta' għasafar selvaġġi;
- Att A2 - Direttiva 80/68/KEE, adatta għall-protezzjoni ta' l-ilma ta' taħt l-art minn tniġġiż minn ċerti sustanzi perkolużi;
- Att A3 - Direttiva 86/278/KEE adatta għall-protezzjoni ta' l-ambjent, b'mod partikolari tal-ħamrija, fl-użu ta' tajn mid-drangġ fl-agrikoltura
- Att A4 - Direttiva 91/676/KEE, adatta għall-protezzjoni ta' ilma minn tniġġiż kaġunat min-nitrati minn sorsi agrikoli;
- Att A5 - Direttiva 92/43/KEE adatta għal konservazzjoni ta' habitat naturali u semi-naturali ta' flora u fauna selvaġġ.

Sahħa Pubblika u ta' l-Animali, Għarfien u Reġistrazzjoni ta' Animali

- Att A6 - Direttiva 92/102/KEE tal-Kunsill, tas-27 ta' Novembru 1992, adatta għall-għarfien u rreġistrazzjoni ta' annimali
- Att A7 - Regolament KE 2692/97 (imħassra bir-Regolament KE 911/2004) li jstabilixxi regoli għall-applikazzjoni tar-Regolament KE 820/97 (imħassar bir-regolament 1760/2000) f'dak li għandu x'jaqsam ma' timbri fil-widna, r-reġistrazzjoni ta' intraprizi, passaporti meħtieġa mis-sistema ta' l-għarfien u reġistrazzjoni ta' baqar
- Att A8 - Regolament KE 1760/2000 li għandu bhala sistema ta' reġistrazzjoni ta' baqar u hu adatt għall-ittikkettjar ta' ċanga u prodotti magħmula miċ-ċanga u li jabroga r-Regolament KE 820/97
- Att A8a - Regolament KE 21/2004 tal-Kunsill tas-17 ta' Diċembru 2003 li jstabilixxi sistema ta' għarfien u reġistrazzjoni ta' nagħaġ u mogħoż u li jemenda r-Regolament (KE) 1782/2003 u d-Direttivi 92/102/KEE u 64/432/KEE.

Sahħa Pubblika ta' l-Animali u tal-Pjanti

- ATT B9 - Direttiva 91/414/KEE adatta għall-bejgh ta' prodotti għall-protezzjoni tal-pjanti
- Att B10 - Direttiva 96/22/KE tal-Kunsill adatta għall-projbizzjoni ta' l-uzu ta' ċertu sustanzi ta' l-ormoni, '*tireostatics*' u *Beta-agonists* fil-produzzjoni ta' l-annimali u t-tħassir tad-Direttivi 81/602/KEE, 88/146/KEE u 88/299/KEE
- Att B11 - Regolament (KE) 178/2002 tal-Parlament Ewropew u tal-Kunsill li jstabilixxi l-prinċipji u r-rekwiżiti ġenerali tal-leġislazzjoni rigward l-ikel, jistitwixxi l-awtorità Ewropea għall-harsien ta' ikel u jstabilixxi l-proċeduri fil-qasam ta' sigurtà fl-ikel
- Att B12 - Regolament (KE) 999/2001 tal-Parlament Ewropew u tal-Kunsill li jsemmi regoli għall-prevenzjoni, kontroll u eradikazzjoni ta' ċerti '*encephalopathies spongiform*' li huma transmettibli
- ATT B13 - Direttiva 85/511/KEE tal-Parlament Ewropew u tal-Kunsill adatta għa miżuri tal-Komunità biex tiġġieled kontra l-marda ta' l-ilsien u d-dwiefer
- Att B14 - Direttiva 92/119/KEE tal-Kunsill adatta għall-introduzzjoni ta' miżuri ġenerali biex jiġġieldu kontra ċertu mard ta' l-annimali u miżuri speċifiċi adatti għal mard vessikulari fil-majjali
- Att B15 - Direttiva 2000/75/KE tal-Kunsill li tistabilixxi disposizzjonijiet speċifiċi adatti għal miżuri biex jiġġieldu u biex jeqirdu il-marda tal-'*blue tongue*' fin-nagħaġ u fil-mogħoż.

#### Harsien ta' l-Annimali

- Att C16 - Direttiva 91/629/KEE, li tistabilixxi *standards* minimi ta' protezzjoni għall-ghoġġiela
  - Att C17 - Direttiva 91/630/KEE, li tistabilixxi l-livell minimu għall-protezzjoni tal-hniezer
  - Att C18 - Direttiva 95/58/KEE, li għandha x'taqsam mal-protezzjoni ta' annimali tar-razzett.
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## SKEDA III

[Regolament 5(5)]

Il-kundizzjonijiet tajbin għall-Agrikultura u l-Ambjent (GAEC) skond l-Artikolu 5 u Anness IV tar-Regolament Nru 782/2003

Tema: Telf ta' hamrija

Standard: Kopertura minima tal-hamrija

N/A

Standard: Ġestjoni minima ta' l-art li tirrifletti kundizzjonijiet speċifiċi  
Standard Nazzjonali: Fuq art imżerżqa, il-ħrit għandu dejjem isir b'mod parallel mal-qlib ta' l-għalqa.

Sommarju tal-htigiet:

Fit-taqsimiet li għandhom xaqliba ta' iktar minn 10%, il-ħrit, il-kultivazzjoni u t-thawwil għandu jsir mad-direzzjoni tal-qlib. M'għandu jkun hemm l-ebda xiehda ta' firex, nixxiegha jew kanali tal-ilma fuq il-post.

Standard: Għelieqi mtarrġa biex iżommu l-ilma

Standard Nazzjonali: Il-ħitan tas-sejjieh ta' l-qugh li jservu biex iżommu l-hamrija għandhom jinżammu f'kundizzjoni tajba.

Sommarju tal-htigiet:

Hitan tas-sejjieh li jservu biex iżommu l-hamrija f'għelieqi mtarrġa għandhom jinżammu fi stat tajjeb. Kull ħsara li tirriżulta minhabba f'saturazzjoni tal-hamrija wara l-maltemp, għandhom jiġu msewwija biex ma tkomplix tinhela iktar hamrija.

Tema: Sustanza organika fil-hamrija

Standard Nazzjonali: Fuq art li tissaqqa, in-newba għandha tkun eżerċitata b'mod regolari, u l-uċuħ li jaqgħu taħt l-istess familja botanika m'għandhomx jtkabbru suċċessivament fuq l-istess medda ta' art

Sommarju tal-htigiet:

Fuq art li tissaqqa, in-newba għandha tkun eżerċitata b'mod regolari, u l-

uċuħ tar-raba' ta' l-istess familja botanika m'għandhomx jtkabbru suċċessivament fuq l-istess biċċa art. Preferibbilment, l-uċuħ tar-raba' ta' l-istess kategorija li jikkonsmaw l-istess tip ta' materja organika m'għandhomx jtkabbru fuq l-istess art għal tliet snin wara xulxin u għandhom isiru newba b'minn ta' l-inqas sena ta' uċuħ tar-raba' li jtejjeb il-ħamrija jew minn ta' l-inqas sena mill-art.

Standard: Ġestjoni ta' ħaxix ħażin li jrid jinħarat

Standard Nazzjonali: Ħaxix ħażin u skart tal-ħxejjex m'għandhomx jinħarqu fuq il-ħamrija sakemm ma jkunx hemm ordni mill-awtorità dwar is-saħħa tal-pjanti nazzjonali

Sommarju tal-ħtiġiet:

Ma tistax taħraq ħaxix ħażin jew skart tal-ħxejjex direttament fuq il-ħamrija sakemm ma jkunx hemm ordni mill-awtorità tas-saħħa tal-pjanti nazzjonali. Jekk jiġri hekk, il-bdiewa għandhom jieħdu azzjonijiet korrettivi, li jinkludi materjal organiku frisk mill-pjanti jew applikazzjoni ta' materjal organiku qabel ma jiġi stabbilit l-wieċ li jmiss.

F'każijiet fejn l-iskart ta' ħxejjex ikunu miġbura f'munzelli u jkun hemm bżonn li jkunu meqruda biex jipprevjenu li l-mard tal-pjanti jiġi trasmess, dan għandu jsir f'parti limitata tal-għalqa, li ma teċċedix 10m<sup>2</sup>. Il-ġestjoni adatta tal-ħaxix ħażin, li tinkludi hart u inkorporazzjoni ta' skart tal-ħxejjex, għandha tiġi implimentata fejn possibbli u fejn kundizzjonijiet agronomiċi jippermettu, u dan sabiex tiżdied is-sustanza organika tal-ħamrija.

Tema: Struttura tal-ħamrija

Standard: L-Użu xieraq tal-makkinarju

Standard Nazzjonali: Il-makkinarju m'għandux jintuża fuq il-ħamrija meta din tkun imfawwra bl-ilma jew tkun imxarrba.

Standard Nazzjonali: Irfis mhux meħtieġ fuq il-ħamrija b'makkinarju tqil għandu dejjem jiġi evitat.

Sommarju tal-ħtiġiet:

1. Mhux permess li tuża makkinarju għal finijiet agronomiċi normali meta l-ħamrija tkun imxarrba jew mimlija bl-ilma biex jiġi evitat il-qlis tal-ħamrija u t-taħsir.

2. Irfis mhux meħtieġ fuq il-ħamrija b'makkinarju tqil għandu jiġi evitat f'kull hin. Mhux permess li wiehed jidhol b'vettura fl-għalqa, u li tintuża xi parti tal-għalqa bħala spazju biex tipparkja vetturi jew makkinarju.

Tema: Livell minimu ta' manutenzjoni

Standard: Rati minimi ta' bhejjem jew / u regimi adatti

Xejn

Standard: Protezzjoni għal mergħa permanenti

Xejn

Standard: Żamma ta' aspetti fil-pajsaġġ, li jinkludu meta dan ikun japplika l-projbizzjoni ta' qluġh ta' siġar taż-żebbuġ.

Standard Nazzjonali: Qluġh ta' siġar indigeni skond it-Tabella I - III ta' l-Avviz Legali 12 ta' l-2001 mhux permess.

Standard Nazzjonali: Id-depożitu ta' hamrija jew it-tfiġh ta' materjal fuq abitat naturali huwa projbit.

Sommarju tal-htigiet:

Siġar protetti skond l-Iskedi I, II, III ta' l-Avviz Legali 12 ta' l-2001 m'għandhomx jiġu maqluġha hliel għal meta jkunu awtorizzati mill-awtorità nazzjonali kompetenti. M'għandu jkun hemm l-ebda depożitu ta' hamrija jew tfiġh ta' materjal f'abitat li jinstab fil-perimetru tal-proprietajiet.

Standard: Jiġi evitat l-*encroachment* ta' haxix hażin fuq art agrikola.

Standard Nazzjonali: L-*encroachment* ta' haxix hażin li jwassal għall-abbandun ta' partijiet jew tal-għelieqi kollha li għandu jiġi evitat.

Sommarju tal-htigiet:

L-*encroachment* ta' hxejjex hżiena li jithalltu mal-kultivazzjoni ta' wcuħ tar-raba' agrikola għandhom ikunu kontrollati b'mizuri adatti sabiex jiġi evitat il-marginalizzazzjoni jew l-abbandun ta' partijiet jew tat-taqsimiet kollha ta' l-art agrikola. F'każijiet fejn il-bdiewa jistabbilixxu żoni ta' *buffer* jew *bio-belts* ta' konservazzjoni fi hdan l-għelieqi tagħhom sabiex tiġi stimolata l-biodiversità jew il-protezzjoni ta' abitat naturali, annimali selvaġġi u oġġetti ta' l-ilma billi jintużaw speċi mhux agrikoli u f'każijiet meta l-bdiewa jadottaw kultivazzjoni bejn il-fillieri ta' speċi mhux agrikoli bejn siġar u wcuħ tar-raba' ohra għal fini tal-kopertura tal-hamrija, proliferazzjoni ta' speċi mhux agrikoli bħal dawk, m'għandhomx ikunu kunsidrati bħala *encroachment* ta' hxejjex hżiena.

Standard: Manutenzjoni ta' boskijiet żgħar taż-żebbuġ f'kundizzjoni veġetattiva tajba.

Standard Nazzjonali: Boskijiet żgħar taż-żebbuġ għandhom jinżammu f'kundizzjoni tajba.

Sommarju tal-htigiet:

Boskijiet żgħar taż-żebbuġ għandhom jinżammu f'kundizzjoni tajba

- żraġen għandhom jitnehhew minn siġar taż-żebbuġ kull sena jew minn ta' l-inqas kull sentejn
  - is-siġar taż-żebbuġ għandhom jingabru minn ta' l-inqas darba kull hames snin
  - pjanti li jinfestaw għandhom jitnehhew mill-oghla parti tas-siġar kull sena.
-

**L.N. 207 of 2009**

**AGRICULTURAL AND FISHING INDUSTRIES  
(FINANCIAL ASSISTANCE) ACT  
(CAP. 146)**

**Cross-Compliance Related to EU Aid Applications in terms of the  
Paying Agency (Amendment) Regulations, 2009**

IN exercise of the powers conferred by article 7 of the Agricultural and Fishing Industries (Financial Assistance) Act, the Minister for Resources and Rural Affairs with the concurrence of the Minister of Finance, the Economy and Investment has made the following regulations:

**1.** The title of these regulations is the Cross-Compliance related to EU Aid Applications in terms of the Paying Agency (Amendment) Regulations, 2009 and they shall be read and construed as one with the Cross-Compliance Related to EU Aid Applications in terms of the Paying Agency Regulations, 2005, hereinafter referred to as "the principal regulations".

Title.

L.N. 346 of 2005.

**2.** Immediately after sub-regulation (4) of regulation 5 of the principal regulations there shall be added the following new sub-regulations:

Amends regulation 5 of the principal regulations.

"(4) The reductions or exclusions referred to in this regulation shall be determined in accordance with the "Definition of the criteria for the calculation of reductions and exclusions" contained in Schedule I.

(5) In terms of Articles 3, 4 and 5 of Regulation (EC) No. 1782/2003 the following two Schedules shall be employed in the interpretation and understanding of this regulation:

(a) Schedule II - List of Acts and Regulations for the individual area of cross-compliance (Annex III, Regulation (EC) 1782/2003); and

(b) Schedule III - Good Agricultural and Environmental Conditions (Annex IV, Regulation (EC) 1782/2003 - Statutory Management Requirements).".

**3.** Immediately after regulation 13 of the principal regulations there shall be added the following schedules:

Adds new Schedules I, II and III to the principal regulations.

"SCHEDULE I

[Regulation 5(4)]

Definition of the criteria for the calculation of reductions and exclusions

The criteria used to calculate the sanctions applicable following the discovery of non-compliance in respect of undertakings and of the rules of cross-compliance, are determined according to Article 6 of Regulation (EC) 1782/03 and Article 65 of Regulation (EC) 796/04, *et seq.*

In particular, community legislation, provides for the application of sanctions through "Areas of Cross-Compliance".

The areas of cross-compliance valid for the year 2009 and subsequent years to be used in calculating eventual reductions are the following:

Annex III to Regulation (EC) 1782/03 (Statutory Management Requirements)

- a. Environment;
- b. Public health, safety, identification and registration of animals;
- c. Hygiene and animal welfare.

Annex IV to Regulation (EC) 1782/03

- d. Good Agricultural and Environmental Conditions

Criteria upon which to calculate the result of cross-compliance.

Following this categorization, (a, b, c and d) the results obtained from inspections carried out applicable to the agricultural holdings will represent these four groups, and the cross-compliance of the holding will result from the sum total obtained.

Sanctions will be imposed by the reduction of aid and, when applied, will be apportioned according to the following criteria (Article 41 of Regulation (EC) 796/2004):

- extent of the non-compliance: determined by bearing in mind, in particular, the impact of the non-compliance itself, which may have repercussions limited to the agricultural holding or even outside it;
- severity of the non-compliance: which depends, in particular, upon the impact of the consequences of the non-compliance in view of the objectives of the requirement or of the regulation in question;

- permanence of the non-compliance: dependant, in particular, on the length of time over which the effect is protracted and by the possibility of eliminating the effect through reasonable measures.

(1) Definition of the control indices and of the seriousness of the non-compliance.

(a) From the first of January 2009, each act or rule relative to the individual areas of non-compliance will be successively described according to:

(i) the national juridical basis of the act or regulation;

(ii) the commitments to be borne by the farmer;

(iii) the indexes of verification of the obligation for each non-compliance applicable to same act or regulation.

(b) Some specifications:

(i) non-compliances of minor importance, for which corrective action is provided for under Regulation (EC) 146/08, which modifies and includes Regulation (EC) 1782/03;

(ii) corrective actions, which the farmer is asked to carry out to end the effects of the non-compliance;

(iii) the levels of the control indices within which the farmer is given a warning without this being defined as non-compliance;

(iv) conditions which show the intentionality of the non-compliance detected.

(c) Important definitions for the purpose of the application of reductions and exclusions:

(i) Repetition: in the case where a regulation or an act is found to have been violated two or more times within the periods established by Regulation (EC) 796/04, the applicable level of sanction is multiplied by a factor of three.

(ii) Corrective actions: the Paying Agency, in their capacity as the competent control authority, and on the basis of what is contained in this document, will set down their own provisions establishing the penalties applicable with respect to the provisions that have been violated. The Paying Agency will therefore determine, in terms of the provisions of Regulation (EC) 146/08, which amends and modifies Regulation (EC) 1782/03, the manner and time within which to carry

out the corresponding corrective actions, for non-compliance considered to be of a minor nature.

(d) In checking whether cross-compliance has been complied with, the report will contain:

- (i) the rule and the nature of corrective actions,
- (ii) the manner and time within which these shall be carried out, and
- (iii) the manner in which the carrying out of the same actions is checked.

Therefore, as already laid down in the description of the acts or regulations, in the case in which an agricultural enterprise or holding has been instructed to take corrective action, and does not comply within the prescribed time, the previous non-compliance detected will be considered to have been repeated and the reductions provided for in cases of repetition will be implemented.

The execution of corrective actions will be incurred and monitored by the Paying Agency according to established criteria, which may assume, according to the nature of the corrective action prescribed, the character of on-the-spot checks or administrative checks.

(2) Schedules of application of reductions by area of cross-compliance

Community Regulations relative to cross-compliance make a distinction between the application of sanctions with respect to the nature of the non-compliance, whether:

- (a) committed through negligence, with or without repetition (Article 66 of Regulation (EC) 796/04), or
- (b) intentionally (Article 67 of Regulation (EC) 796/04).

As a result, the manner of calculating and applying reductions is divided into two parts, in conformity with this distinction.

The basis of calculating the percentage reduction is applicable to the total amount of direct payments, as established in Article 66(1) of Regulation (EC) 796/04.

(a) Negligence

All instances of non-compliance to which the characteristics of intentionality are not attributable, are considered to be caused by negligence.

The procedure to establish the calculation for the applicable sanction is the following:

(i) for every act and regulation in a given area of cross-compliance in which there is the non-compliance, the seriousness of the non-compliance is quantified (low = 1; medium = 3; high = 5) in terms of extent, severity and permanence (cf. control index);

(ii) once the three indexes for each act or regulation infringed have been quantified, the three corresponding values are added and a mathematical computation is made to obtain the average score (which will range between 1-5);

(iii) for each area of cross-compliance, on the basis of that which is established by Article 66(2) of Regulation (EC) 796/04, the average scores obtained for each non-compliance detected are added, thus reaching a total score which refers to that area of cross-compliance.

The score obtained for each area of cross-compliance is compared to the following table of values:

Class	Score	Reduction %
I	Equal or above 1,00 and less than 3,00	1%
II	Equal or above 3,00 and less than 5,00	3%
III	Equal or above 5,00	5%

Once the reduction for each area of cross-compliance is defined, the percentages obtained are added and compared with the limit established by Article 66 of Regulation (EC) 796/04, paragraphs 1, 2 and 3, which states that the maximum reduction applicable for non-compliance due to negligence must not exceed 5% of the total amount of direct payments and measures under Article 2 of Council Regulation 1698/2005.

The percentage reductions defined are applied to the total amount of direct payments, (Article 2(d) of Regulation (EC) 1782/03,) which have been or are about to be distributed to the farmer subject to inspection made on the basis of the request for aid which he has presented or intends to present during the course of the calendar year in which the non-compliance detected was committed (Articles 66 and 67 of Regulation (EC) 796/04).

#### Example

This enterprise dealing in animal husbandry is obliged to adhere to the following areas of cross-compliance and the respective acts and regulations:

- Area of Cross-compliance "environment": Acts A2 and A3

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- Area of Cross-compliance "public health": Acts A6/A7/A8
- Area of Cross-compliance "GAEC": Regulations 1.1; 2.1; 3.1; 4.1; 4.2; 4.4

Act or regulation	Inspection result		Quantification of control indexes			Expected Score [(e)+(s)+(p)]/3	Total Score and Class	Reduction
	Positive	Negative	Extent (e)	Severity (s)	Permanence (p)			

Area of cross-compliance "Environment"

A 2	✓		1	3	5	1	3	5		1	3	5		2.33	1%
A 3		✓	1	3	5	1	3	5		1	3	5	7/3= 2,33	Class 1	

Area of cross-compliance "Public Health"

A6/7/8/8a	✓		1	3	5	1	3	5	1	3	5	0	0	0%
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Area of cross-compliance "Good Agricultural and Environmental Conditions"

GAEC		✓	1	3	5	1	3	5	1	3	5	15/3=5,000	5,00 Class III	5%
													Total reduction	6%
													Application of art. 66 (3) Reg. (EC) 796/04	5% (ceiling)

(b) Repetitive negligence

A repetition of non-compliance occurs when the same regulation or commitment is infringed several times during one or two years successive to the first non-compliance (cf. Regulation (EU) 796/04, article 66, paragraph (4)) or in the case when corrective action was instructed to the farmer/landowner and in turn the farmer/landowner does not complete this within the stipulated timeframe.

(i) First Repetition

The first repetition of non-compliance will:

- increase the maximum level of sanctions applicable in terms of the cross-compliance from 5% to 15% and
- result in the multiplication of the sanctions applicable in that year by a factor of three (3).

Example

Take again the previous example, subjected to a new inspection during the year following the first inspection.

The situation of his undertaking has remained unchanged, therefore he still has to follow the same regulations and undertakings which he will have checked up on previously.

- Area of cross-compliance "environment": Acts A2 e A3
- Area of cross-compliance "public health": Acts A6/A7/A8/A8a
- Area of cross-compliance "GAEC"

The results of the inspection are the following:

Act or regulation	Inspection result		Quantification of control indexes			Expected Score [(e)+(s)+(p)]/3	Total Score and Class	Reduction
	Positive	Negative	Extent (e)	Severity (s)	Permanence (p)			

#### Area of cross-compliance "Environment"

A 2	✓		1	3	5	1	3	5	1	3	5		2.33	
A 3		✓ rep.	1	3	5	1	3	5	1	3	5	7/3= 2,33	Class 1	1%

#### Area of cross-compliance "Public Health"

A6/7/8/8a	✓		1	3	5	1	3	5	1	3	5	0	0	0%
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#### Area of cross-compliance "Good Agricultural and Environmental Conditions"

GAEC	✓ rep.	1	3	5	1	3	5	1	3	5	15/3=5,000	5,00	Class III	5%
Area of cross-compliance "environment":											1% x 3 =	3% with repetition		
Area of cross-compliance "public health" :											0% =	0%		
Area of cross-compliance "GAEC" :											5% x 3 =	15% with repetition		
Global reduction: (above the 15% maximum)											18%			
Application of Art. 66 (4) Reg. (EC) 796/04											15% (with warning)			

\*Note: In the chart the acts or regulations already infringed earlier are in bold.

The repetition has its effect in the area of cross-compliance in which non-compliance is found.

The result of the area of cross-compliance (in this example for GAEC and Environment), after having applied the charts of evaluation shown above, is then multiplied by a factor of three (3).

The global reduction is the total of the reductions resulting from the areas of cross-compliance under inspection, within the 15% limit (which in the example shown above has been exceeded).

When the summing up of the reductions reaches or exceeds 15%, the reduction applied shall in any case be 15%, but the farmer will be subject to a warning, in the form of a reprimand, which will warn him that if further occurrences of the same infractions occur, these same non-compliances shall be considered as intentional.

(ii) Second Repetition

The second repetition of non-compliance detected during the two years following the discovery of the first non-compliance will result in the further multiplication of the sanction applied in the previous year by a factor of 3 (three).

In this case too, however the maximum limit of the applicable sanction is 15% and in case that this limit is reached or exceeded, the reprimand described above shall be added to the maximum sanction.

(c) Intentionality

Intentionality shall be attributed to the non-compliances detected when:

1. following a previous repetition in which the farmer has already received a reprimand according to the provisions of article 66, point 4, paragraph 3 of Regulation (EC) 796/04;
2. control indexes exceed the limits established for certain Regulations and Acts;
3. indications of intentionality are found by the specialised inspection Entities (FVRD, MSA MEPA etc), during tests envisaged for the observance of the Statutory Management Requirements.

Actions to be taken upon intentionality of non-compliance:

- (a) Article 67(1) of Regulation (EC) 796/04, in the case of intentional non-compliances, the reduction applicable to direct aid and section 2 measures of Council Regulation 1698/2005 as a whole is established at 20%;
- (b) Article 67(2) of Regulation (EC) 796/04, for the year in question the farm is excluded from the system of benefits to which the non-compliance refers,
- (c) finally, in the case of repeated intentional non-compliances the

provisions of Article 67(2), second paragraph, of Regulation 796/04 are applied where the farmer of that holding will be excluded from the scheme of aid to which the repeated intentional non-compliance refers for the current and successive year.

(d) Accumulation of non-compliances of a different nature

This section defines the manners of implementing reductions in situations in which various instances of non-compliances of different natures are detected in the enterprise: non-compliance due to negligence, non-compliance considered as intentional, non-compliance detected for the first time and repeated non-compliance.

1. Negligent and Intentional non-compliances committed by the farmer/holding

1.a. Two non-compliances detected in two different areas of cross-compliance.

As happens with non-compliance due to negligence, the effect of the non-compliances is added.

Example 1.a.

Non-compliances detected:

- Non-compliances due to negligence in the "Area of cross-compliance - GAEC", in which a reduction of 3% is applied;
- Intentional non-compliances in the "Area of cross-compliance - Environment", to which a reduction of 20% is applied.

The resulting reduction will be:

$$3\% \text{ (GAEC Negligence)} + 20\% \text{ (Environment Intentional)} = 23\%$$

1.b. Three or more cases of non-compliances detected in different areas of cross-compliance

As happens with non-compliances due to negligence, the effect of the non-compliances is added in this instance with the possible application of the "ceiling" of 5% of non-compliance due to negligence.

Example 1.b.

Non-compliances detected:

- Non-compliances due to negligence in the "Area of cross-

compliance GAEC", to which a reduction of 3% is applied;

- Non-compliances due to negligence in the "Area of cross-compliance Animal Welfare", to which a reduction of 3% is applied;
- Intentional non-compliances in the "Area of cross-compliance Environment" to which a reduction of 20% is applied.

The resulting reduction will be:

3% (GAEC Negligence) + 3% (Welfare Negligence) = 6% reduced to 5% by the application of the 'ceiling' + 20% (Environment Intentional) = 25%

1.c. Three or more non-compliances detected in two different areas of cross-compliance

In this case, for the "Area of cross-compliance" in which non-compliances due to negligence and intentional non-compliances have been considered together the non-compliances are considered as one single non-compliance, (according to Article 66(2) of Regulation 796/04.)

Example 1.c.

Non-compliances detected:

- 2 instances of non-compliance in the "Area of cross-compliance GAEC", one due to negligence, to which a reduction of 3% is applied, and one which was intentional, to which a reduction of 20% is applied;
- Non-compliance due to negligence in the "Area of cross-compliance of Animal Welfare", to which a 3% reduction is applied.

The resulting reduction will be:

(GAEC Negligence) + (GAEC Intentionality) = intentional infraction = 20% + 3% (Environment Negligence) = 23%

2. Two or more repetitions of non-compliance attributable by the same farmer/holding

Example 2

Year 1

- Non-compliance with Regulation 4.2 due to negligence - reduction 3%
- Non-compliance with Act A2 due to negligence - reduction 5%

Resulting reduction =  $3 + 5 = 8\%$ , reduced to 5% (ceiling)

Year 2

- Non-compliance with GAEC 2 due to negligence - reduction 3%
- Non-compliance with Act A2 due to negligence - reduction 5%

By virtue of Article 66(4) of Regulation 796/04, there is:

- Non-compliance with GAEC due to negligence - reduction  $3*3 = 9\%$
- Non-compliance with Act A2 due to negligence - reduction  $3*5 = 15\%$

Resulting reduction =  $9 + 15 = 24\%$ , reduced to 15% (ceiling)

Since the 15% threshold has been exceeded the enterprise will be informed that each repetition of the non-compliance detected will be considered as having been committed intentionally.

3. Two or more intentional non-compliances charged to the same enterprise

3.a Two or more intentional non-compliances in the same area of cross-compliance.

Example 3.a.

Non-compliances detected:

- Intentional non-compliance with SMR 2
- Intentional non-compliance with SMR 3

In this case the non-compliances are considered as one non-compliance, in terms of Article 66 (2).

Resulting reduction = 20%

3.b Two or more intentional non-compliances in different 'areas' of cross-compliance.

Example 3.b.

Non-compliances detected:

- Intentional non-compliance with GAEC

- Intentional non-compliance with SMR A4

Resulting reduction = 20% (GAEC Intentionality) + 20% (Environment Intentionality) = 40%.

4. Two or more intentional repetitions of non-compliances charged to the same farmer/holding

In the case of intentional repetitive non-compliance, the provisions of Article 67(2), paragraph two, of Regulation EC 796/04 are applied, where the enterprise will be excluded from the scheme or schemes of aid to which the intentional repetitious non-compliances refer both for the current and the subsequent year.

5. Application of sanctions following recommendations made by the competent authorities

Articles 48 and 65 of Regulation 796/2004 provide that non-compliances which are brought to the attention of the competent control authorities must be the subjected to the application of reductions in the same manner as those discovered during inspections carried out in the premises as laid down in Article 44 of the same Regulation.

In particular, since the Paying Agency is also the competent control authority in charge of the approval of aid, if cases of flagrant non-compliance with the regulations of the GAEC or of the Statutory Management Requirements are confirmed, the appropriate warning will be given by the application of the appropriate sanctions provided.

Similarly, should the competent authorities concerning the identification and the welfare of animals (Veterinary Services) point out serious cases of non-compliance the appropriate sanction procedures must be applied in an analogous manner, as in the cases of checks for eligibility.

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## SCHEDULE II

[Regulation 5(5)]

List of Acts and Regulations for the individual area of cross-compliance

Annex III to Regulation 1782/03 (Obligatory Management Policy)

### 1. Environment

- Act A1 - Directive 79/409/EEC, relative to the conservation of wild birds;
- Act A2 - Directive 80/68/EEC, relative to the protection of underground water from pollution caused by certain dangerous substances;
- Act A3 - Directive 86/278/EEC, relative to the protection of the environment, in particular the soil, in the use of sewage sludge in agriculture;
- Act A4 - Directive 91/676/EEC, relative to the protection of water from pollution caused by nitrates from agricultural sources;
- Act A5 - Directive 92/43/EEC, relative to the conservation of the natural and semi-natural habitats and of wild flora and fauna.

Public and Animal health, Identification and Registration of Animals

- Act A6 - Directive 92/102/EEC of the Council, of the 27 November 1992, relative to the identification and registration of animals
- Act A7 - Regulation EC 2629/97 (repealed by Regulation EC 911/2004) which establishes rules for the application of Regulation EC 820/97 (repealed by Regulation EC 1760/2000) as regards ear tags, the registration of enterprises, the passports required by the system of identification and registration of cattle;
- Act A8 - Regulation EC 1760/2000 which institutes a system of identification and registration of cattle and relative to the labelling of beef and products made from beef and which repeals Regulation EC 820/97;
- Act A8a - Regulation EC 21/2004 of the Council of the 17 December 2003 which establishes a system of identification and registration of sheep and goats and which amends Regulation (EC) 1782/2003 and Directives 92/102/EEC and 64/432/EEC

Public, Animal and Plant Health

- Act B9 - Directive 91/414/EEC relative to the marketing of plant

protection products;

- Act B10 - Directive 96/22/EC of the Council relative to the prohibition of the use of certain hormonal substances, 'thyrostatics' and Beta-agonists in animal production and the abrogation of Directives 81/602/EEC, 88/146/EEC and 88/299/EEC;

- Act B11 - Regulation (EC) 178/2002 of the European Parliament and the Council which establishes the principles and the general requisites of the legislation regarding foodstuffs, institutes the European authority for food safety and establishes the procedures in the area of food safety;

- Act B12 - Regulation (EC) 999/2001 of the European Parliament and of the Council which lays down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies;

- Act B13 - Directive 85/511/EEC of the European Parliament and of the Council relative to community measures to combat foot and mouth disease;

- Act B14 - Directive 92/119/EEC of the Council relative to the introduction of general measures to combat certain animal diseases and specific measures relative to vesicular disease in swine;

- Act B15 - Directive 2000/75/EC of the Council which establishes specific dispositions relative to the measures to combat and eradicate bluetongue in sheep and goats

#### Animal Welfare

- Act C16 - Directive 91/629/EEC, which establishes the minimum standards for the protection of calves;

- Act C17 - Directive 91/630/EEC, which establishes the minimum standard for the protection of pigs;

- Act C18 - Directive 98/58/EEC, regarding the protection of farm animals.

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## SCHEDULE III

[Regulation 5(5)]

The Good Agricultural and Environmental Conditions pursuant to Article 5 and Annex IV of Regulation No. 1782/2003

Issue: Soil erosion

Standard: Minimum soil cover

N/A

Standard: Minimum land management reflecting site-specific conditions

National Standard: On sloping land, ploughing should always be practiced in parallel with the contours of the field.

Summary of the requirement(s) :

On parcels having a slope greater than 10%, ploughing, cultivation and planting should be carried out across the direction of the slope. There should be no evidence of sheet, rill or erosion gullies on site.

Standard: Retain terraces

National Standard: Load-bearing rubble walls that serve to retain soil on terraced slopes should be maintained in a good condition.

Summary of the requirement(s):

Load-bearing rubble walls that serve to retain soil on terraced land should be maintained in a good state. Any breaches occurring as a result of soil saturation following storms should be repaired in order to prevent further soil loss.

Issue: Soil organic matter

Standard: Standards for crop rotations where applicable

National Standard: On irrigated land, crop rotation should be practised regularly, and crops belonging to the same botanical family should not be grown successively on the same parcel of land.

Summary of the requirement(s) :

On irrigated land, crop rotation should be practised regularly, and crops

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belonging to the same botanical family should not be grown successively on the same parcel of land. Preferably, crops belonging to the same soil humus-depleting category should not be grown for more than three years successively on the same parcel and have to be put into rotation with at least one year of the soil-improving crops or with at least one year of set-aside.

Standard: Arable stubble management

National Standard: Stubble and vegetable residues should not be burnt on the soil, except where by order of the national plant health authority.

Summary of the requirement(s) :

It is forbidden to burn stubble or vegetation residues directly on the soil, except by order of the national plant health authority. Following such cases, farmers shall adopt corrective actions, including green manuring or application of organic material prior to the establishment of the following crop.

In cases where harvested vegetable residues are collected in a heap and need to be destroyed for the prevention of transmissible plant diseases, this should be done in a limited area of the field, not exceeding 10m<sup>2</sup>. Appropriate stubble management, including ploughing and incorporation of residues, should be practiced where possible and where agronomic conditions permit, in order to increase soil organic matter.

Issue: Soil structure

Standard: Appropriate machinery use

National Standard: Machinery should not be used on the soil when it is flooded or water-saturated.

National Standard: Unnecessary trampling on the soil with heavy machinery should be avoided at all times.

Summary of the requirement(s) :

1. It is prohibited to use machinery for normal agronomic purposes when the soil is water-saturated or flooded to avoid compaction and deterioration of soil structure.

2. Unnecessary trampling on soil with heavy machinery should be avoided at all times. It is forbidden to enter into the field unnecessarily with a vehicle, and to use any part of the field as a parking space for vehicles and machinery.

Issue: Minimum level of maintenance

Standard: Minimum livestock stocking rates or/and appropriate regimes

None

Standard: Protection of permanent pasture

None

Standard: Retention of landscape features, including where appropriate the prohibition of the grubbing up of olive trees

National Standard: Uprooting of indigenous trees listed in Schedule I-III of Legal Notice 12 of 2001 is forbidden.

National Standard: The deposition of soil or dumping of sublayer material on garrigue habitats is prohibited.

Summary of the requirement(s) :

Protected trees listed in the Schedule I, II, III of Legal Notice 12 of 2001 should not be uprooted except when authorised by a permit from the national competent authority.

There should be no deposition of soil or dumping of sublayer material on garrigue habitats lying within the perimeter of the holdings.

Standard: Avoiding the encroachment of unwanted vegetation on agricultural land

National Standard: The encroachment of unwanted vegetation leading to abandonment of parts or all of the fields should be avoided.

Summary of the requirement(s) :

The encroachment of unwanted vegetation which interferes with the cultivation of agricultural crops should be controlled through appropriate measures in order to prevent the marginalisation or abandonment of parts or all of the parcels of agricultural land. In cases where farmers establish buffer areas or conservation bio-belts within their fields for the purpose of encouraging biodiversity or protection of natural habitats, wildlife and water bodies using non-agricultural species, and in cases where the farmers adopt inter-row cultivation of non-agricultural species between trees or other crops for the purpose of soil cover, such proliferation of non-agricultural species is not to be considered as encroachment of unwanted vegetation.

Standard: Maintenance of olive groves in good vegetative condition

National Standard: Olive groves should be maintained in good condition.

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Summary of the requirement(s) :

Olive groves must be maintained in good condition:

- suckers must be removed from olive trees every year or at least every two years,
  - the olive trees have to be pruned at least once every 5 years,
  - infesting plants must be removed from aerial part of the trees every year."
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