

## **Chapter 27**

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**Department of Agriculture, Fisheries and Food**

**Agricultural Inspections**



## Agricultural Inspections

27.1 The Single Payment Scheme (SPS) was introduced in Ireland in January 2005, replacing existing schemes such as livestock premia and arable aid schemes. The SPS generally applies to farmers who actively farmed during the reference years 2000, 2001 and 2002, who received livestock premia and/or arable aid and remained farming in 2005. The SPS is decoupled from production and is based on average payments received over the reference years.

27.2 Under the SPS farmers are required to observe a number of Statutory Management Requirements (SMR's) which originate from EU legislation on the environment, public, animal and plant health and animal welfare and to maintain land in Good Agricultural and Environmental Condition (GAEC). Adherence to these farm management, environmental, health and welfare conditions is known as cross-compliance.

27.3 In Ireland, cross-compliance was extended to a number of other schemes from 2007, mainly, the Disadvantaged Area Scheme (DAS) and the Rural Environmental Protection Scheme (REPS).

## Schemes and Inspections

27.4 The SPS is wholly funded from the EU while DAS and REPS are part funded by the EU. The value of these three schemes to Irish farmers was some €1.8 billion in 2009. The Department of Agriculture, Fisheries and Food (the Department) is the paying agency for the schemes and has responsibility for their administration and control and for eligibility and cross-compliance inspection.

27.5 Inspections are integrated with the general aim of minimising the number of inspection visits and moving towards a situation where, in most cases, all eligibility and cross-compliance checks are carried out during a single farm visit. The requirement to integrate inspections is also provided for in EU regulations<sup>207</sup>. The Department's Integrated Controls Division, (ICD) carries out the inspections. Under EU regulations between 20% and 25% of cases inspected should be selected at random, the remainder are selected on the basis of risk.

27.6 Where infringements are identified on inspection, penalties can be imposed. In 2009, penalties in relation to eligibility, full cross-compliance and Identification and Registration (IDR) of €1.9 million were imposed.<sup>208</sup>

27.7 Failure to exercise financial control over payments as set out in EU regulations can lead to a disallowance being applied to EU schemes. In 2009, Ireland incurred a disallowance of €15,000 as a result of a 2005 EU Commission audit.

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<sup>207</sup> Commission Regulation (EC) No 796/2004.

<sup>208</sup> 80% of penalties are credited to the EU fund while 20% are retained and accounted for as Appropriation-in-aid of the Vote for Agriculture, Fisheries and Food.

## Chapter Focus

The audit set out to ascertain

- whether the risk methodology used by the Department is effective in profiling the farming population in a way that ensures the efficiency of inspection by focussing on the most risky cases
- whether the structure and organisation of the inspection programme is sufficient to put a check on the full range of criteria taking account of timing of the underlying conditions and whether the operation of the Department's Integrated Controls Division is cost effective in the light of the pattern of inspection activity
- how the Department addressed the issues that led to an EU penalty of €15,000 being imposed.

## Inspection Programme

27.8 The annual inspection programme is designed to monitor and inspect farming enterprises, as specified in the relevant EU Regulations in order to ensure that they comply with scheme conditions and regulations. The range of tests conducted are set out in Figure 136.

**Figure 136 Inspection Programme Specified in EU regulations**

Type of Test	Proportion of population examined	Method of selection
Eligibility	5% of total population for SPS, DAS and REPS schemes.	20-25% on a random basis and remainder on a risk assessment basis.
Cross Compliance	1% of the sample chosen for testing eligibility.	20-25% on a random basis and remainder on a risk assessment basis.
Identification and registration checks	5% of cattle farmers and 3% of sheep farmers covering 5% of the sheep population	20-25% on a random basis and remainder on a risk assessment basis

## ***Focus of Inspections***

27.9 Each type of inspection has a particular set of inspection objectives. These are outlined in Figure 137.

**Figure 137 Inspection Focus**

### ***Eligibility Inspection***

Eligibility checks are carried out to verify entitlement to payments under SPS, DAS and REPS. Eligibility checks carried for SPS and DAS aim to verify

- the actual area declared in applications corresponds with the area available to the farmer in that year and that no overlapping or duplicate claims exist
- the use for which land is actually employed is the same as declared on the application
- appropriate deductions have been made for all ineligible areas such as buildings
- a stocking rate of 0.15 livestock unit/hectare is observed in the case of DAS.

REPS eligibility checks also verify declared land and usage of land and adherence to various conditions set out in each farmer's individual REPS application.

### ***Cross-Compliance Checks***

Cross-compliance checks aim to verify that

- farmers comply with applicable SMR's as agreed in EU legislation in areas of environment, public, animal and plant health and animal welfare
- farmers maintain land in good agricultural and environmental condition as set out in GAEC regulations.

### ***Identification and Registration Checks***

Identification and registration checks aim to verify that

- calves are tagged with approved tags within specified time frames after birth
- all cattle are tagged, have correct passports and complete and up to date documentation
- herd registers and details on the Department's CMMS<sup>a</sup> system are correct and up-to-date.

Note:

- a The Cattle Movement Monitoring System (CMMS) was set up the Department to trace all cattle movements from birth to disposal.

27.10 Cross Compliance and Identification and Registration (IDR) checks require on-farm visits. Cross Compliance Inspections are conducted without the farmer receiving prior notice, while IDR inspections can be undertaken with or without prior notification to the farmer.

27.11 Under EU regulations eligibility checks may be conducted using remote sensing<sup>209</sup>. The Department aims to conduct about two-thirds of these checks by way of remote sensing with the balance conducted by way of an on-farm visit. An external contractor is employed to conduct the eligibility checks using remote sensing. The satellite image is compared with the application to confirm eligibility. Some of these cases may require an on-farm visit to conclude on eligibility, which make take the form of a rapid field visit or a full on-farm inspection.

27.12 The audit found that for all types of inspection the level conducted exceeded the amount required by EU regulations.

## **Risk-Based Inspection**

27.13 The selection of risk criteria and decisions about the proportion of the sample selected on the basis of individual criteria are critical to the effectiveness of the risk-based approach.

27.14 On an annual basis, a Risk Analysis Group in the Department examines the results of the previous years eligibility and cross-compliance checks in order to evaluate the appropriateness of the risk criteria used.

27.15 The work comprises two elements

- Examination of the penalties imposed in the risk-based sample to determine which risk criteria produced the most penalties. This examination takes account of cases that although selected under a particular risk criterion attracted penalties due to a different criterion.
- Examination of the penalties imposed in the randomly selected sample. A risk criterion is attached to each randomly selected case. The penalties imposed are then examined to establish which risk criteria are producing the most penalties. The results of random inspections are used as a baseline against which risk performance can be measured.

27.16 The results of these evaluations are used to decide the proportion of the risk-based sample selected on the basis of individual risk criteria in the subsequent year.

## **Results of Inspections 2009**

27.17 The audit found that overall, a total of 7,455 farmers were inspected for eligibility and 1,361 (18%) attracted a penalty amounting to €02,052 giving an average penalty of €63. The analysis showed that

- Random inspections have resulted in penalties being imposed in 23% of cases inspected while the corresponding risk based percentage is 17%. 54% of penalties imposed in randomly selected cases are less than 3% of relevant payments as compared with 60% in relation to cases selected on a risk assessment basis.
- The penalty rate for on-farm visits is 23% as compared with 15% for cases where eligibility is checked via remote sensing.
- Penalties imposed represented 3% or less of relevant payments in 66% of SPS cases, 44% of DAS cases and 53% of REPs cases.

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<sup>209</sup> Remote sensing involves the analysis and interpretation of aerial and satellite imagery to confirm eligibility.

- In a small number of cases in each of the schemes the penalties imposed represented between 75% and 100% of relevant payments - 4% of SPS cases, 1% of DAS cases and 3% of REPs cases.
- SPS returned the highest percentage of penalties, 16%, while DAS returned 10% and REPs 1%.

27.18 There are two categories of inspection that examine compliance

- Full cross compliance checks which cover all 18 SMRs including IDR checks for cattle and sheep and GAEC.
- IDR checks which examine identification and registration for cattle and sheep.

27.19 A total of 1,505 farmers were inspected for full cross compliance, the majority of which included checks in relation to IDR for cattle and sheep<sup>210</sup>. Penalties totaling €10,875 were imposed on 469 farmers (31%). The average full cross compliance penalty was €1,089. 32% of cases selected on a risk assessment basis are penalised as compared with 28% for random. As with eligibility penalties, the majority of penalties imposed are in the category of 3% or less of relevant payments — 62% of farmers.

27.20 There were 6,362 IDR checks comprising

- 4,296 farmers were inspected for cattle IDR only and penalties with a total value of €245,895 were imposed in 329 or 8% of these
- 1,763 farmers were inspected for sheep IDR only and total penalties of €163,703 were imposed in 226 or 13% of these
- 303 farmers were inspected for both cattle and sheep IDR and total penalties of €38,098 were imposed in 47 or 15% of cases.

27.21 Taking account of the two categories of compliance checks, a total of 7,867 farmers were inspected in 2009 with 1,071 (14%) attracting penalties totaling €58,571.

27.22 Penalties were imposed in the case of 5% of farmers selected randomly and 8% of farmers selected on a risk assessment basis when inspected for cattle IDR. 5% of farmers selected randomly and 10% of farmers selected based on a risk assessment basis were penalised when inspected for sheep IDR.

### ***Views of the Accounting Officer***

27.23 As the efficiency of the inspection system was called into question in instances where the level of non-compliance detected in random inspections exceeded that in risk focused inspections I sought the views of the Accounting Officer.

27.24 The Accounting Officer stated that the Department's approach to risk analysis complies with the requirements of EU regulations. Prior to 2008 Member States were required to include 10 mandatory risk criteria each year, which in the Departments view was not the optimum system as similar type farmers were inspected every year.

27.25 Since 2008, the Commission allows Member States to define the most appropriate risk criteria by establishing the relevance of each risk factor. This is achieved by comparing the results

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<sup>210</sup> From a total of 1,505 full cross compliance inspections, 1,462 contained checks in relation to cattle IDR and 1,433 contained checks in relation to sheep IDR.

of risk based and randomly selected cases and by taking into account the specific factors in each Member State. A weighted risk approach was also tested by the Department but analysis proved it was difficult to identify the predictability of the occurrence of penalties.

27.26 The Department is obliged to include eligibility risks appropriate to SPS, DAS and REPs. As the schemes have different eligibility criteria this increases the number of risks that must be included by the Department regardless of their performance.

27.27 He stated that Commission studies on the outcomes of inspections in all Member States confirm the difficulty in ensuring risk assessed cases out perform randomly selected cases.

27.28 The Accounting Officer stated the error rate for remote sensing will generally be lower than for on-farm visits due to certain instances of non compliance which are difficult to identify remotely. Ireland has been using 12 remote sensing zones resulting in a concentration of risk based inspections in these areas. As random cases are chosen from the entire population, the majority of these fall outside remote sensing zones and therefore require on-farm visits resulting in a higher penalty rate from random inspections.

27.29 The Accounting Officer was satisfied that the tolerance<sup>211</sup> and penalty system is adequate in acting as a genuine deterrent to non compliance and the system has been the subject of on going audits by the Commission without negative findings to date.

## **Conduct and Resourcing of Inspection Programme**

27.30 All control checks except eligibility checks conducted by way of remote sensing require a farm visit. Inspections are arranged and conducted across four phases throughout the year as outlined in Figure 138.

- Phase 1 are identification and registration inspections.
- Phase 2 are on-farm eligibility checks of beneficiaries under DAS. These farmers may also be inspected for IDR or cross-compliance. These checks must be completed by September before DAS payments issue.
- Phase 3 are on-farm eligibility checks on applicants who are not beneficiaries of schemes other than DAS. These farmers may also be inspected for IDR or cross-compliance and must be completed by October before the advance SPS payments issue.
- Phase 4 comprises the balance of the cross compliance checks and identification and registration checks not already conducted in conjunction with eligibility checks. The only requirement for these inspections is that they are carried out within the calendar year.

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The Department developed a weighting system within the cross compliance inspection, which allows a certain level of tolerance for infringements, which are inadvertent and minor in nature. Where tolerance is applied the farmer will be notified of the infringement and afforded time to rectify it, which will then be rechecked by an inspector. Failure to do so will result in the application of a minimum 1% penalty.

**Figure 138 Patterns of Farm Visits 2009**

Month	Phase 1	Phase 2	Phase 3	Phase 4	Total
January					
February					
March					
April	47				47
May	825			1	826
June	886	486	2	-	1,374
July	187	981	43	4	1,215
August	21	646	54	22	743
September	16	523	163	17	719
October	267	2	305	37	611
November	757	3	2	407	1,169
December	1062	1	1	279	1,343
<b>Sub-Total</b>	<b>4,068</b>	<b>2,642</b>	<b>570</b>	<b>767</b>	<b>8,047</b>
SCWS					603 <sup>a</sup>
<b>Total</b>	<b>4,068</b>	<b>2,642</b>	<b>570</b>	<b>767</b>	<b>8,650</b>

Note:

- a A total of 1,128 SCWS inspections were conducted in 2009, 525 were conducted in conjunction with other inspections, while 603 SCWS only inspections were conducted throughout the year.

27.31 The Integrated Controls Division of the Department has a complement of 152 staff; 140 involved in inspections and 12 administrative staff. In 2009 there were 86 active Technical Agricultural Officers (TAO's), with 29 in the Supervisory Agricultural Officer (SAO) grade and 25 District Superintendents (DS). The TAO's are the frontline staff who carry out the inspections, which are then checked by the SAO. The DS will check a minimum of 20% of all files and must decide on the level of penalty to apply in cases of non-compliance. On average a TAO will conduct 100 inspections annually. Allowing for annual leave and other factors such as the pattern of inspections, inspectors carry out on average three inspections each week.

27.32 A full costing of the service is not available nor is an apportionment of the cost over the different schemes under the responsibility of the Division. The Department has not developed norms in respect of the cost and duration for the various types of inspection. However, its aim is to ensure that inspections do not take more than a half-day for the average farmer client.

27.33 Overall, when direct salary costs, overheads<sup>212</sup>, imputed pension costs<sup>213</sup> and travel and subsistence are taken into account the cost of the inspection programme is of the order of €15.8 million. Based on this, the average cost of an inspection is in the region of €1,800. However, a more refined calculation based on the intensity of each inspection would only be possible if norms were established by the Department based on its experience.

<sup>212</sup> An overhead rate of 40% has been applied based on guidance on costing public services contained in guidelines from the Department of the Taoiseach, June 2009.

<sup>213</sup> A 13% imputed pension cost has been used based on Special Report No. 68, Public Service Pensions, Office of the Comptroller and Auditor General.

### **Views of the Accounting Officer**

27.34 In view of the apparent downtime revealed in the pattern of resource utilisation I sought the observations of the Accounting Officer. The Accounting Officer informed me that to ensure the most efficient use of resources, the Department's policy was to minimise the number of inspection visits and move towards a situation where, as far as possible, eligibility, cross compliance and IDR checks are carried out during a single farm visit. However, it is not always possible to avoid more than one farm visit. Therefore, in reality the four-phase approach adopted represents the optimum use of resources while at the same time meeting the minimum regulatory requirements including the timing of inspections.

27.35 Since SPS applications are not received by the Department until May of each year, eligibility inspections cannot commence before this date and must be completed before any payments are issued. It does, however, mean that a lull occurs in the earlier months of the year, which facilitates re-performance checks, formulating risk criteria for the upcoming inspection campaign and preparation of procedures manuals and training. Furthermore, since February 2010 the Department has undertaken to carry out 1,500 on-farm nitrates inspections on behalf of local authorities.

27.36 In regard to the cost of inspection the Accounting Officer stated that while it is possible to track the time taken between the issue of an individual file to an inspector and its return, it is not possible to individually attribute a time associated with each inspection since during a farm visit, the TAO may be completing a number of different inspections.

### **Addressing Issues that led to EU Disallowance**

27.37 In 2005, the EU Commission carried out an audit of the Clearance of EAGGF Guarantee accounts under Article 7(4) of Regulation (EC) No. 1258/1999 and (EC) No. 1663/95. The audit focused, *inter alia*, on the Department's

- responsibility to conduct on the spot checks
- risk analysis
- quality of reports
- correct application of sanctions
- ability to ensure that all cross-compliance issues were covered.

27.38 The Commission's main finding was that the control system for cross-compliance checks for direct aid to farmers in Ireland was not in line with provisions set out under Article 47(1) of Regulation 796/2004<sup>214</sup> as not all farmers selected for on-farm cross-compliance checks were checked for all SMRs applicable to them. The Commission requested the Department to provide a breakdown of the population affected by the non-compliance showing the numbers of farmers not checked for all the relevant SMRs and GAEC in 2005.

27.39 On the basis of the audit findings and data provided by the Department to the Commission, the Commission maintained that the Irish system represented a financial risk and proposed a financial correction amounting to €1.8 million in January 2008. This represented a financial correction of 5% applied to the amount deemed by the Commission to be at risk. This amount of €35.4 million has been established in accordance with Commission guidelines on cross

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<sup>214</sup> Article 47(1) of Regulation 796/2004 provides that "*In performing the checks on the sample provided for under Article 44, the component control authority shall ensure that all farmers thus selected are checked with regard to their compliance with the requirements and standards for which it is responsible.*"

compliance penalties at 3% of the direct payments for the claim year 2005. The Department made a request for conciliation following which in February 2009 the Commission reduced the disallowance to €715,000.

### ***Views of the Accounting Officer***

27.40 In view of the loss to public funds I sought the views of the Accounting Officer on how the matters giving rise to the disallowances were addressed. The Accounting Officer informed me that in his view the system of risk analysis adopted by Ireland for 2005 was at least as effective as the system proposed by the Commission. At that time farmers were selected for cross compliance inspection on the basis of risk pertaining to each individual SMR, with 1% of farmers being selected for inspection under each SMR. The Commission contended that 1% of farmers should have been selected and inspected for compliance with each individual SMR that was applicable to them.

27.41 The Department has adapted its cross compliance risk analysis from 2006 onwards in order to ensure that it complies fully with the regulatory requirements. The Accounting Officer stated that EU regulations governing selection of the control sample for cross compliance were subsequently amended in 2007 so as to allow Member states to adopt a risk selection similar to that adopted by the Department in 2005.

## **Conclusion**

Overall, the level of inspection reached or exceeded the requirement of the EU regulations. The eligibility, cross compliance and IDR tests carried out in 2009 complied with the EU requirement that 20%-25% of required checks be selected on a random basis.

For eligibility inspections, risk focussed inspections surface less compliance breaches than pure random cases. This suggests a need to review the risk assessment basis since a fundamental purpose of risk assessment is to help an organisation focus on the riskier cases.

The estimated cost of an inspection is about €1,800 and inspectors complete on average three inspections per week. In order to arrive at a more refined costing based on the size and intensity of each inspection, relevant data would need to be collected and norms established.

To enable the efficiency and cost effectiveness of inspection services to be assessed, costing of the different types of inspections is required. Data to enable this is not currently available. For this reason and in order to establish norms in relation to the duration and costs of inspections the Department should consider ways of costing their inspectorate services.

