

2018

Guide to the Basic Payment Scheme



Department of
**Agriculture, Environment
and Rural Affairs**

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1. Introduction to the Guide

This Guide explains the rules of the 2018 Basic Payment Scheme (BPS). You are advised to read it before completing your 2018 Single Application (SA).

The booklet '**How to complete your Single Application Online** will provide you with more detailed information on how to complete your application correctly. There is also an **Area-Based Schemes Single Application and Maps 2018 – Questions and Answers** booklet available to view or download from the Department of Agriculture, Environment and Rural Affairs (DAERA) website.

There are other guidance booklets which provide information about the other area-based schemes that you can apply for on the SA and also information booklets on Cross-Compliance and the Northern Ireland Countryside Management Scheme.

The Guidance Booklets are:

1. Guide to the Area-Based Schemes (Summary)
2. Guide to the Young Farmers' Payment/Regional Reserve.
3. Guide to the Greening Payment.
4. Forestry Grant Schemes Information Booklet
5. Guide to Land Eligibility.
6. Guide to Transfer of BPS Entitlements.
7. 2018 Cross-Compliance Verifiable Standards - Summary Version.
8. 2018 Cross-Compliance Verifiable Standards - Full Version.
9. Guide to Business Changes
10. DAERA Identification numbers for business customers, herd and flock keepers

These booklets and relevant forms can be downloaded from the DAERA website at:

<https://www.daera-ni.gov.uk/articles/area-based-schemes-2018-guidance-and-forms>

You are strongly advised to read the booklets relevant to your application prior to completing your SA.

The booklets are intended as information guides for farm businesses and should not be regarded as a legal interpretation of the EU regulations governing the BPS and other schemes.

Applicants are advised to take independent legal advice, as necessary, to ensure their interests are looked after.

2. Important Points to note for 2018

1. The Single Application (SA)

EU legislation requires that the Department, from 2018, must have online claims to cover 100% of the total area determined for the Basic Payment Scheme. In order to achieve this the 2018 Single Application (SA) must be completed online.

To help you complete your application online the Department will be running a series of workshops at a number of local DAERA Direct Offices. The SAF Advisory Team based in Orchard House will also be available to provide advice and help you to complete your online application.

In addition you can authorise someone, using a Nomination of Authorised Person Form, to act on your behalf and they can complete the application for you. You can download this form from the DAERA website:

<https://www.daera-ni.gov.uk/articles/area-based-schemes-2018-guidance-and-forms>

The Department's website: <https://www.daera-ni.gov.uk/topics/grants-and-funding> contains a lot of guidance and information regarding the application form including 'How to' videos.

2. Negative List

As a result of amendments agreed in Brussels to EU regulations in December 2017, the Department has removed the 'negative list' requirement from 2018 scheme year.

The negative list provisions were applied to the very small number of farms in Northern Ireland that also operate airports, railway services, waterworks, real estate services, and permanent sport and recreational grounds.

3. Review of Decisions process

In 2017 the Department launched a public consultation on a new Review of Decisions process for area-based schemes. In December 2017 the Departmental Board decided to introduce a new, single stage, Review of Decisions process from the 2018 scheme year. The current 2-stage Review of Decisions process will close to new applications when the new process is formally launched. Applications lodged under the current process will go through that process until its conclusion.

Details will be published on the Department's website when available.

3. General Rules of the Basic Payment Scheme

Introduction

The Basic Payment Scheme (BPS) was introduced in Northern Ireland on 1 January 2015 and payment entitlements were allocated to those eligible farm businesses which applied for BPS in 2015.

For most farm businesses access to 2018 BPS will depend on the number of payment entitlements that it holds on or before the closing date of the BPS Scheme. You must activate at least 3 entitlements for payment each year and for each payment entitlement you activate you must have one eligible hectare of land. Therefore the minimum claim size is 3ha of eligible land declared to activate BPS entitlements and you must hold at least 3 BPS entitlements. If the minimum claim size is not met or you hold less than 3 BPS entitlements your application will be rejected.

To activate your BPS entitlements for payment you must submit a SA on or before the closing date of the BPS which is 15 May each year (except in cases of force majeure / exceptional circumstances). If the 15 May falls on a Saturday, Sunday or Public Holiday the Department will accept applications on the next working day without penalty. **The closing date for this scheme year is Tuesday, 15 May 2018.** If the Department does not receive an application form from your farm business it will not issue a reminder.

It is your responsibility to activate your entitlements by submitting a SA on or before the closing deadline. If you do not activate your entitlements you may lose them.

Farm businesses can also apply to establish new entitlements or increase the value of their existing entitlements if they are eligible to apply to the Regional Reserve (RR). For further information please see the **2018 Guide to the Young Farmers' Payment / Regional Reserve.**

The application closing dates and other important dates, or any major changes to the BPS will be explained in the booklet '**How to complete your Single Application Online in 2018**' which will be made available to farm businesses each scheme year.

Who is eligible to apply for the BPS?

To be eligible to claim payment under the BPS you must meet all of the following conditions-

- You must hold at least 3 BPS entitlements and have 3 ha of eligible agricultural land or are eligible to activate 3 BPS entitlements by applying to the RR in 2018.
- You must be farming the land that you are declaring to activate entitlements (claiming).

- The land on which you claim payment must be at your disposal on 15 May in the year of the claim and remain eligible for the full calendar year.
- Any individual field you declare to activate BPS entitlements must be at least 0.1 ha (except for common land).

Note: By farming it is meant that you have the decision making power, obtain the benefits and take the financial risks in relation to the agricultural activity on the land declared to activate entitlements.

How to apply

You must apply for area-based schemes using the online Single Application and Maps Service (see Section 5). **The Department will no longer accept paper applications.**

No decision made on allocation of BPS entitlements

If you have not received BPS entitlements due to an outstanding decision (including those where a review of decision is in progress) by DAERA relating to 2015, 2016 or 2017 scheme year applications, and you wish to activate these entitlements (if subsequently allocated) in 2018, then you need to complete a SA online in 2018, declaring the land you are farming in 2018 to activate BPS entitlements. If you do not submit a SA by the application deadline in 2018 and are subsequently allocated BPS entitlements, it will not be possible to activate these entitlements in 2018 (see also Section 8 on confiscation of entitlements).

If you are not farming in 2018, it will not be possible for you to activate BPS entitlements in 2018 even if these are subsequently allocated in respect of 2015, 2016 or 2017 scheme year applications.

If a decision on the allocation of BPS entitlements is outstanding on 2 May 2018 (deadline for notification of entitlement transfers), it will not be possible for you to transfer entitlements for 2018 scheme year. Transfer applications cannot be submitted in relation to BPS entitlements which do not exist at the date of transfer.

Fields declared on one application only

A field must be declared on only one SA except in very specific circumstances for agri-environment schemes, (see information below).

Only declare and claim the land that you are farming, irrespective whether or not of that land is owned by you, leased in or taken in conacre by you. Land which you own but are not farming because it is leased out/let in conacre to another farmer should not normally be declared on your application. Rather it should be declared on the application of the person who is actually farming it.

Duplicate field cases

Only one claimant is permitted to activate entitlements on each field and in this case

where there is any doubt, claimants will be asked to provide evidence demonstrating to the Department's satisfaction that the requirements have been met. Duplicate field cases will be investigated and the claimant who is found to enjoy the decision making power, benefits and financial risks in relation to the agricultural activity on land parcels subject to a duplicate application will be the applicant who can claim their BPS entitlements on that land. Financial penalties may be applied to the farm business which has wrongly claimed.

Landowner/tenant issues including dual use claims

In line with the rules on active farmer, dual use claims involving the BPS (including RR) and any other area-based payment that is the Greening Payment and Young Farmers' Payment (YFP) **are not permitted**.

Dual use claims may remain possible under the agri-environment programme (see paragraphs below).

Basic Payment Scheme and Agri-Environment Schemes

The Northern Ireland Countryside Management Scheme (NICMS) may continue to be claimed by the existing NICMS agreement holder in 2018 and until the end of the agreement even if this creates a dual use claim with the BPS. In such cases the field parcel will, for the purposes of the calculation of Greening requirements, be regarded as on the holding of the farm business claiming the BPS.

NICMS agreements may be transferred to the farm business claiming the BPS on the land in question, subject to existing scheme rules, if the agreement holder wishes to do so. The farm business claiming BPS must then comply with the requirements of the agri-environment scheme agreement.

If NICMS is not claimed on the SA, the agreement holder will not be sent an NICMS Second Stage claim form for that year. Please note, if NICMS is not claimed in 2 consecutive years, the agreement will be terminated.

Environmental Farming Scheme

The Environmental Farming Scheme (EFS) is a voluntary agri-environment scheme that will support farm businesses and land managers to carry out environmentally beneficial farming practices on agricultural land.

Dual Use claims will only be permitted on Natura 2000 or Areas of Special Scientific Interest (ASSI) land, and only where the applicant can demonstrate significant environmental benefit accruing from the arrangement.

If you are considering a dual use claim, you should seek further advice by contacting Area-based Schemes on 0300 200 7848 or areabasedschemes@daera-ni.gov.uk prior to proceeding with your application.

Further information on agri-environment schemes including the EFS can be found on the DAERA website:

<https://www.daera-ni.gov.uk/articles/2018-guide-environmental-farming-scheme>

How we check your claim

It is important that you meet all the eligibility requirements for the BPS and, in line with EU requirements, we will be undertaking controls to ensure that you do.

We will carry out administrative checks on all claims we receive. Where there is any doubt about your claim you will be asked to provide further information demonstrating, to the Department's satisfaction, that the eligibility requirements have been met.

You should provide this information within any timeframes that are stipulated to help avoid delays with your payment.

If you do not provide this information the Department may process your application on the information available and your application may be rejected.

The Department may also supplement the administrative checks with rapid field visits or follow-up ground checks if necessary.

In addition to administrative checks the Department is also obliged to carry out On-the-Spot Checks (OTSCs) on at least 5% of claims to ensure that the eligibility conditions of the BPS have been met. These will take the form of either a classic OTSC, when an inspector will visit your farm, or will be conducted using Control with Remote Sensing (CwRS) using a satellite image with rapid field visits or follow up checks on the ground by an inspector, if needed, to provide further clarification. No payment will be made if you, or others acting on your behalf, prevent any of these checks from taking place. Section 10 provides further information.

In keeping with the Counter Fraud Strategy and, in particular, to combat fraud by false representation, DAERA will adopt a 'check first and pay later' culture.

Penalties for non-compliance with the EU Regulations

If you fail to meet the eligibility criteria for the BPS you may incur penalties which could result in a reduction to your payment or your application may be rejected. A false declaration made deliberately or recklessly may also lead to criminal prosecution. See Section 10 for further information on penalties.

Under EU Regulations we do not have discretion to waive penalties, but in limited circumstances, we may accept that you did not meet the requirements of the BPS because of events outside of your control; this is known as force majeure or exceptional circumstances. Where this is the case, we will not normally apply penalties. See Section 11 for further information on force majeure or exceptional circumstances.

Payment in sterling

Payments will automatically be paid in sterling and will be made electronically into your bank, building society or credit union account unless you tell us you want to be paid in euro.

Payment in Euro

You must tell us by answering the appropriate question on the 2018 SA if you want to be paid in euro. The exchange rate used will be the average of the European Central Bank rates set over the month of September. This exchange rate will be published on the DAERA website when it is announced.

Once you have selected the currency of payment you cannot change this after 15 May 2018.

The same sterling or euro bank account cannot be used by more than one farm business.

If you request to be paid in euro but have not supplied us with your UK euro bank details, your claim will not be paid until you do.

Cross-border holdings within other United Kingdom regions

A cross-border holding is where you have land in more than one region of the United Kingdom (UK) which is managed as a single farm business. This will affect the way you claim BPS because the schemes in Scotland, Wales and England are managed differently from Northern Ireland.

Under the BPS farm businesses will need to make one claim for their holding. If you farm in more than one UK region, your claim will consist of 2 or more separate parts - one for each region. You will need to be aware of these differences and understand the relevant rules for those regions.

For example, the minimum claim size for BPS is 3 ha in Northern Ireland and Scotland and 5 ha in England and Wales. Farm businesses must meet the minimum claim size rules in the country where the majority of their land is located.

So if the majority of a farm business's land is located in Northern Ireland or Scotland, they will need to have a holding of at least 3 ha and 3 entitlements.

Making a cross-border application

To make a cross border claim you need to complete a BPS application for each region where you have land, then send it to the paying agency for that land. For example, if you have land in Northern Ireland and Scotland, you need to apply to:

- DAERA for the land in Northern Ireland, and
- Rural Payments and Services Scotland for the land in Scotland.

A paying agency is the organisation that administers a scheme and makes payments within an individual country or region. The Paying Agencies in the UK are:

- Northern Ireland - DAERA
- England - Rural Payments Agency (RPA)
- Scotland - Rural Payments and Services Scotland
- Wales - Rural Payments Wales

When you apply you will be asked if you have land in other UK countries. This will help the paying agencies who will work together to process cross border claims.

The application deadline for all BPS claims is midnight on 15 May in each scheme year unless the 15 May falls on a Saturday, Sunday or Bank/Public Holiday, then it will be the next working day.

Payments for cross border claims

A 'lead paying agency' will make payments for cross border claims. In most cases this will be the paying agency in the UK country where most of a farm business's land is located.

Land in the Republic of Ireland

It is not possible to use land that is situated in the Republic of Ireland (RoI) to establish or activate BPS entitlements in Northern Ireland.

Cross-Compliance

Cross-Compliance (CC) applies to a number of area-based schemes including the BPS.

The CC requirements are designed to promote sustainable agricultural practices in Europe and reflect a number of environmental and other objectives. They are good farm management practices and encourage responsible stewardship of land.

In return for payments under the area-based schemes covered by CC you must meet the requirements of a number of Statutory Management Requirements (SMRs) and keep your land in Good Agricultural and Environmental Condition (GAEC).

We will carry out inspections to verify that all the CC requirements are being met. Failure to meet these requirements will lead to financial penalties being applied to your area-based payments.

Details of the CC requirements and information on how CC penalties are calculated can be found at –

4. Land eligibility and the Basic Payment Scheme

Introduction

To be eligible for the BPS land must be at your disposal on 15 May and must be used for an eligible agricultural activity for the entire calendar year (1 January – 31 December), except in cases of force majeure or exceptional circumstances.

It is vital that you only claim on eligible land and that you understand clearly that it is in your interests and it is your responsibility to ensure that your maps are up-to-date and all ineligible areas are removed. If you need help, clarification or guidance please contact your local DAERA Direct Office.

Eligible land

Eligible land under the BPS includes any land that is used for permanent grassland, arable land or permanent crops.

Land that no longer meets the usual eligibility rules for BPS due to specific Agri Environment prescriptions or management implications relating to designated sites e.g. ASSIs, may be eligible. Evidence to support this will be required.

Full details of eligible land for the BPS can be found in the Guide to Land Eligibility at:

<https://www.daera-ni.gov.uk/publications/2018-guide-land-eligibility>

Minimum Field Size

Any individual field or area within a field that you declare to establish and activate BPS entitlements must have an eligible area of at least 0.1 ha.

There is an exception for common land. Provided the Maximum Eligible Area (MEA) of any field is greater than 0.1 ha graziers can still claim their share of that field, even if their share is less than 0.1 ha.

Declaring land under the BPS

You must declare all land parcels (fields) which you are farming in 2018 and have eligible agricultural area plus any other land parcels (fields) eligible for a CAP Scheme (for example, forestry) on your SA, Field Data Sheet (FDS) at Column B 'Total Field Area (ha)'. Enter the eligible land usage code at Column F of your FDS.

Land parcels (fields) that **ARE NOT** in agricultural use **DO NOT** need to be declared at Column B. For example, rough land that is not grazed or managed, or a scrap yard next to the farm yard. No code is needed at Column F as the land is not in agricultural use and therefore does not need to be declared on the field datasheet.

Land parcels (fields) which have no eligible agricultural area and are not eligible for any CAP schemes do not need to be declared. However in relation to field parcels which you believe have no eligible area because any agricultural activity is insignificant (e.g. ineligible heather with very small numbers of sheep) or agriculture is not the predominant use (e.g. tree density above 50 trees per ha), you may want to protect your position against any possibility of an under declaration penalty. You can do this by declaring the field parcel at Column B, **entering an area of zero** in column G (area to activate for BPS and Greening) and listing the land use code in column F as FR1.

Claiming on land for BPS

You must claim all the eligible land you are farming in 2018 in column G (area to activate for BPS and Greening).

You should make sure it is eligible land when you apply and will remain so throughout the calendar year. You should consider very carefully about claiming areas in 2018 which do not make a significant contribution to the agricultural activity of your business, as there is a high probability that these areas are ineligible.

Maximum Eligible Area

For each of the fields that you declare you must check that the MEA is correct. The MEA is our assessment of the **maximum** area that you can use to claim BPS for each field based on the boundary and ineligible features shown on your map.

To avoid validation errors that may delay the processing of your 2018 claim, it is important that the MEA held on our mapping system is correct.

Your latest map will show the MEA for each field and areas that DAERA considers as being ineligible. The MEA is our assessment of the maximum area that you can use to claim BPS in each field and is based on the boundary features and ineligible features that we have shown on your map.

Based on the eligibility rules you must make further deductions to your MEA or areas pre-populated on your 2018 SA if you consider other areas in your fields do not meet the eligibility criteria. Do not assume that the MEA is correct as things may have changed on the ground since this assessment.

If we later find that you have claimed BPS on ineligible areas we may apply financial penalties to your claim.

The most important things to remember are:

- Do not claim on land if there is doubt about its eligibility.
- Do not assume that you can claim the MEA for your fields. It is possible the Department's assessment of the MEA is incorrect. We want you to correct it where

that is the case. You must check that all ineligible features have been deducted and only claim on eligible land.

- Do not claim a larger area than the MEA unless you are very sure that this area is wrong and have reported the change to DAERA. See information below on how to report changes to your map.
- We will carry out cross checks between the MEA and the area you claim. If you claim a larger area we will have to investigate every difference we identify. This will take time and will impact on our ability to process your claim quickly.
- You can claim less than the MEA and you must ensure that you deduct any other ineligible areas from your claim that we have not included on your map.

How to report changes to your map

Important: Requests for map changes should be submitted as soon as possible to ensure that you receive an updated MEA before the SA period closes. This will prevent delays validating your claim.

You can use the following methods to notify us of a map change.

- Using our online service. The SA online service includes your map which you can view, print and submit changes as you complete your application.
- You can request a paper copy of your map by emailing areabasedschemes@daera-ni.gov.uk or by phone on 0300 200 7848.
- In exceptional cases you can notify us of changes using a LPIS Change Form that is available by emailing areabasedschemes@daera-ni.gov.uk or by phone on 0300 200 7848.

All map changes should be reported as soon as possible but well in advance of the closing date of 15 May 2018 for the receipt of completed SAs. This is to ensure that you receive an updated MEA before the SA closes and to avoid delays validating your application. We will not accept any amendments to increase your claimed area on your application after 11 June 2018 (except in cases of force majeure or exceptional circumstances).

For more detailed information read the booklet ‘How to complete your Single Application Online in 2018’ which accompanies the 2018 SA and is also available on the DAERA website.

Common land

Common land can be used to claim the BPS providing the land meets the eligibility requirements.

If the Commons are managed by Trustees, the MEA of the shares will be provided to the shareholders by the Trustees.

If you are, by agreement, using an area allocated to another farm business, you must provide evidence of that agreement to Area-based Schemes Payment Branch before the closing date for submission of the 2018 SA, i.e. 15 May 2018.

At your disposal on 15 May 2018

The land that you are claiming must be at your disposal on 15 May 2018 **and** must be eligible for the entire calendar year.

The assessment as to whether you enjoy the decision making power, benefits and financial risks in relation to the agricultural activity (active farmer requirement) on each parcel of land you are claiming **is based on all agricultural activity carried out on the land parcel throughout 2018.**

Definition of agricultural activity

Agricultural activity is defined as:

- (i) production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes,
- (ii) maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, based on criteria established by Member States on the basis of a framework established by the Commission.

Agricultural activity (for example, grazing, cutting or harvesting a crop) must take place on the entire area being claimed on a significant and consistent basis throughout the calendar year. Heather burning should only take place within the permitted period i.e. 31 August to 15 April and not on blanket bog or designated sites. Evidence of this or denied attempts to manage the area appropriately must be available at inspection.

Minimum level of activity

Land is only eligible for the BPS if the vegetation is kept in a state suitable for grazing or cultivation and agricultural activity is carried out over the entire area being claimed on a significant and consistent basis in the calendar year of the claim.

At an OTSC, evidence of at least one of the following agricultural activities being carried out on all of the land being claimed must be available from its appearance:

- grazing, for example paths made by animals, animal droppings;
- growing and harvesting a crop;
- management of the vegetation such as flailing or controlled burning of heather.

Wildfires or burning more than 20% of the heather area is not considered controlled burning and therefore is not agricultural activity. If the fire is due to a reason beyond your control, you may wish to submit a force majeure application within 15 working days of the event (or being in a position to do so) for consideration (see Section 11).

If evidence of agricultural activity is only present on part of a field then the remainder of the field will be ineligible. Placing small numbers of animals on large areas of bog land or heather is unlikely to make these areas eligible. Similarly, the presence of animals on these areas for a short period is unlikely to make them eligible. Land being claimed must be eligible for the entire calendar year, so action undertaken after an inspection has found the land to be ineligible can only make the land eligible for the next calendar year.

Nitrates Action Programme (NAP) Regulations

From 2015 the eligible land area determined to activate BPS entitlements (column G of the SAF2 - FDS) is considered by DAERA to be the agricultural area on your holding. It will therefore be this area that will be notified to the Northern Ireland Environment Agency (NIEA) for the purposes of checking that you have complied with the nitrogen loading limit under the Nitrates Action Programme Regulations. This may result in a Nitrates Action Programme Cross-Compliance inspection.

If you don't use all of your eligible land to activate BPS entitlements for payment in 2018, then you may find it difficult to comply with the nitrogen loading limit. Fields which are used by another farmer to claim BPS cannot be used by you in relation to the nitrogen loading limit as by definition they are being farmed by someone else.

Non-agricultural activity on eligible land

To be eligible for BPS land has to be used primarily for an agricultural activity. If agricultural and non-agricultural activities are taking place on the same land the land won't be eligible if the intensity, nature, duration and timing of the non-agricultural activity significantly interferes with agricultural activity.

Some non-agricultural activities and the impact of these on BPS are outlined below.

Category A:

These non-agricultural activities do not significantly interfere with agricultural activity and won't stop you getting paid for the land, as long as it is eligible for BPS. Examples include walking, farm visits, fishing, shooting (game).

Category B:

These non-agricultural activities are allowed, but not for more than 28 days (consecutively or not) in the calendar year. Examples include car parking, country fairs and shows, clay shooting, farm auctions and sales.

Category C:

These non-agricultural activities mean that generally you cannot claim BPS on the land. This category includes situations where the principal purpose of the land is

for recreational or other non-agricultural activities, such as golf courses, other permanent sports facilities, gallops, or airstrips/ airfields/airports.

Further information can be found in the Guide to Land Eligibility at:

<https://www.daera-ni.gov.uk/publications/2018-guide-land-eligibility>

Land temporarily out of agricultural use

If some or all of your land is not available to you on 15 May, or is ineligible for the BPS at any time during the year for reasons of force majeure or exceptional circumstances, you should tell us when you submit your claim, or if you have already submitted your claim, within 15 working days of the date of being in a position to do so as you may still be able to claim on that land.

For further information on force majeure or exceptional circumstances, see Section 11 of this booklet.

Shared Grazing

Under EU rules an 'agricultural parcel' (that is, a field) is defined as a continuous area of land, declared by one farmer. A field can only be claimed by the farm business that is undertaking the agricultural activity on it.

Fields cannot be shared.

Only fields which are enclosed with recognised boundaries may be claimed. More than one business claiming a field for the same scheme (that is multiple claimants) will not be permitted. If existing fields are being used by more than one farmer then the field will need to be split by erecting a permanent boundary such as a fence.

The only exception when fields can be shared is in cases where DAERA is satisfied that the eligible land is shared to graze animals by all the businesses involved and it is not practical to fence the land. In these cases we have allocated notional shares by dividing the MEA based on their actual use of the land as agreed with the businesses. These fields have been allocated a 940 field usage code.

Hemp

It is a criminal offence to grow hemp in the UK for any purpose without a licence.

Areas used for the production of hemp shall only be eligible for BPS if the varieties used have a tetrahydrocannabinol content not exceeding 0.2%.

We may penalise you and recover any money you have been paid if you do not meet the conditions of growing hemp.

Official seed labels

For hemp grown on land to claim BPS, certified seed of one of the eligible varieties must

be used. The original official seed labels, confirming the variety of hemp grown, must be supplied to the Department along with your 2018 SA. These will be receipted by DAERA and returned to you. Where sowing takes place after 15 May, these labels must be submitted no later than 30 June. It is recommended that you send your seed labels by recorded delivery when returning your SA.

Further information on hemp can be found in the Guide to Land Eligibility at the link below:

<https://www.daera-ni.gov.uk/publications/2018-guide-land-eligibility>

5. Single Application and Map Service

Introduction to the Single Application and Map Service:

From 2016 EU regulations require that the Department provides farm businesses with an electronic application when applying for the BPS and other area-based schemes. This provides you with access to your application and your map and can be accessed on the DAERA website under online services by clicking the link entitled 'Single Application and Map Service'. This will make it easier for farm businesses to submit accurate claims and avoid penalties and also to make administrative cross checks more efficient.

For those familiar with making your claims online, there will be little change in 2018 to the look and feel of the application. You have the facility to view and make changes to your maps which will automatically feed into your application and be displayed as unverified changes.

Only applications made online will be accepted. For those who are not in a position to use the online system the Department will provide technical assistance to enable an online application to be made.

Further information will be issued to all farmers in due course.

For 2018, to find out how you can claim online: call us on, 0300 200 7848 or text EASY to 67300 or go to www.daera-ni.gov.uk/online-services.

6. Active Farmer requirements

Definition of active farmer

Payment under the BPS will only be made to the person having decision making power, benefits and financial risks in relation to the agricultural activity on the land for which activation (payment) of entitlements is requested. This is referred to as the 'active farmer' requirement and is based on all agricultural activity carried out on the land in 2018.

All 3 elements - decision making power, benefits and financial risks - must be fulfilled by you.

Land let under conacre and other land tenure arrangements

For the purpose of activating BPS entitlements, the nature of the land tenure arrangement is irrelevant (subject to the claimant having the land at his disposal on 15 May 2018). The key issue is the agricultural activity taking place on the land and what is happening in practice, and in particular, who enjoys the decision making powers, benefits and the financial risk of that agricultural activity.

The active farmer requirements have particular relevance for land let under conacre arrangements. If you are the landowner and you let your land out in conacre, it will generally be the case that it is your conacre tenant who carries out the main agricultural activity on the conacre land and enjoys the decision making power, benefits and financial risks in relation to this agricultural activity. Therefore, the tenant will be able to claim payments in 2018 on that land, not you as the landowner.

If you consider that there are exceptional circumstances which lead you to believe that you can meet the active farmer requirement, even though the land is let out, then it will be up to you as a landowner to demonstrate how you meet the active farmer requirements.

Selling Grass/Silage

You must be able to demonstrate clearly that you enjoy the decision making power, benefits and financial risks in relation to the agricultural activity being carried out on the land over the course of the year. This will be much easier to demonstrate if the agricultural activities on the land throughout the year have been carried out by you alone, or by your employee or an independent contractor engaged by you, and the farmer who eventually purchases the silage has had no involvement in its production or storage.

Example 1

The landowner himself purchases and applies all the inputs required to grow the grass crop. The landowner engages a contractor to harvest the grass as round bale silage when it is ready and the bales are then stored on the landowner's property. After advertising the silage for sale, the landowner sells the round bales to a number of other farm businesses at the best available market price. No other farming activities have taken place on the land over the course of the year. In this scenario, the landowner

would be able to make a strong case that he should receive BPS payments because he took all of the management decisions, obtained the benefits from the agricultural activity, carried the financial risks in relation to that activity and there was no other activity on that land over the course of the year.

Example 2

The landowner agrees that a farmer who has taken the land in conacre in previous years should take the grass from the field this year. The farmer arranges for delivery of the inputs and applies the inputs required to grow the grass. The farmer subsequently harvests the grass and places it in his silo when ready. The landowner pays for the inputs and pays the farmer for harvesting costs. The farmer pays for the grass and the overall financial outcome is similar to conacre rent.

This scenario would appear to have the same practical and financial impact as conacre. The decision making powers, benefits and the financial risks of the agricultural activity appear to reside primarily with the farmer and not the landowner.

Therefore, it would be very difficult for the landowner to demonstrate to the Department that all 3 of these requirements have clearly been met by him in respect of this activity and, hence, very unlikely that the landowner would be paid BPS in 2018.

Contract rearing of livestock

Contract rearing agreements can come in many different forms. If you are the farm business under a contract rearing agreement it is likely that you will be eligible to claim BPS on the relevant land used for that enterprise if you can demonstrate that you manage the livestock and associated grassland (i.e. taking the decisions and bearing the costs in relation to husbandry), bear risks in relation to the agricultural activity being carried out (for example you suffer a financial loss if animals don't meet performance targets, etc.) and obtain benefits from this agricultural activity (for example a payment for rearing the animals).

You should be aware that all 3 conditions must be satisfied and the contract rearing enterprise must be linked to the claimed land. A person who had responsibility under a contract rearing agreement simply to check the animals each day and ensure that they had adequate feed and water would be unlikely to meet the requirements to receive BPS allocated entitlements.

Share farming

Under share farming arrangements more than one farm business can be involved in the exercising of agricultural activity on a particular area of land. However BPS can only be paid to the farm business which holds the entitlements.

Winter grazing of sheep

The effect of allowing other farm businesses to winter graze your land with sheep depends on individual circumstances.

For example, a dairy farm business who has the land at his disposal on 15 May, takes 3 cuts of silage from a field plus some aftermath grazing, and then allows another farm business to graze sheep on that field for a month or 2 over the winter, will be able to claim BPS on that field. That is because the dairy farm business (which has the land at its disposal on 15 May) will be able to demonstrate that for the majority of the agricultural activity being carried out in 2018 he enjoys the decision making power, benefits and financial risks.

However, where a landowner carries out very little or no agricultural activity on the land during 2018 and then lets the field to another farm business for winter grazing, it will be extremely difficult for the landowner to demonstrate that he meets the requirements to receive payment in 2018.

Keeping land in Good Agricultural and Environmental Condition

There is a requirement for BPS claimants to carry out some activity on the land such as mowing the vegetation, in order to maintain the land in a state suitable for grazing or cultivation. Keeping land in Good Agricultural and Environmental Condition (GAEC) is counted as an agricultural activity. Land on which no agricultural activity is being carried out is not eligible for support.

If you are simply maintaining the land in GAEC and allow another farm business to carry out agricultural activity on this land (for example winter grazing sheep), then that becomes the primary agricultural activity and means that you will not be able to meet the requirements of the scheme. Equally if you carry out agricultural activity other than simply maintaining the land in GAEC then this becomes the primary agricultural activity.

Purchasing fertiliser, cutting hedges and cleaning sheughs

If someone else is using your land for grazing, silage or cropping activities and your activities are confined to purchasing fertiliser, cutting hedges and cleaning sheughs, then it is extremely unlikely that you will be able to demonstrate clearly that you have decision making powers, benefits and the financial risks of the agricultural activity on land.

Provision of Evidence

The Department will carefully assess each application received to consider whether the active farmer requirements have been met. The assessment of whether an applicant meets the active farmer requirements will be based on individual circumstances.

Where there is any doubt as to whether the active farmer requirements have been met, further evidence will be requested. The outcome in each case will depend on the evidence submitted which demonstrates what is happening in practice and not just what may be recorded in writing.

The onus is on you as applicant to be able to prove that the land declared on your application to activate BPS entitlements is eligible. If you are unable to provide satisfactory evidence when asked to show that you meet the scheme requirements, then

the land declared may be deemed ineligible which could result in financial penalties being applied and no payment being made.

The following are examples of evidence that may be required:

- Accounts for the farming business prepared by a qualified accountant
- Receipts relating to output and inputs
- Bank statements showing income/expenditure relating to receipts
- Contract Rearing Agreements
- Share Farming Agreements
- Evidence demonstrating that your agricultural activity has a different practical and financial outcome compared to renting land in conacre
- An explanation of your farming activities, your personal involvement in these and how this can be reconciled with other documentary evidence relating to the farm business

Additional evidence may also be required. It is important that you can demonstrate that you meet the active farmer requirements on all land being used to activate entitlements in 2018.

Attempting to claim BPS on land on which you carry out no agricultural activity or where the activity is carried out under the control of another farmer is not allowed, even if you are clearly farming other areas of land which you declare. If crops are being grown on the land, you may need to be able to demonstrate that you are growing and harvesting the crops. Therefore, you should retain all evidence that would allow you to do so.

If you are asked to provide evidence, it is important that you do so within any deadlines specified by the Department, otherwise your application may be rejected.

Not Farming in 2018

If your farm business is not farming in 2018 you are not eligible to claim BPS, Greening Payment or YFP. You should not submit a claim as this may result in over declaration penalties.

If your farm business holds BPS entitlements but is not farming in 2018 the entitlements may be transferred by lease (temporary transfer) or sale/gift (permanent transfer) to a business that is farming in 2018 which may proceed to activate the entitlements for payment (see also Section 8 on payment entitlements)

7. Business structure and separately managed businesses

Introduction

Under EU Regulations DAERA must maintain a record of the identity of anyone who submits an application to receive EU funding. Each business must be registered with us and have a unique business identification (ID) number.

Business IDs are mainly used to administer and pay farm based subsidies under the SA. The Department has controls in place to ensure that, as far as possible, each business ID is allocated to an independent and separate business both in status and in practice. A test is applied to each application for a business ID based on criteria concerning legal status, economic structure/organisation, commercial arrangements, and operational arrangements.

You should ensure that the information we hold on your farm business is accurate and up-to-date. If there is a change to the farm business you must notify the Department of the change and the reason for it as soon as possible by using the relevant Business Change (BC) Form (see paragraphs below on 'Changes to your business structure').

The Department is reviewing businesses which have had no herd or flock activity or have not submitted applications for CAP schemes in recent years. In particular, those businesses that have had no activity for 5 years or more will be closed. Anyone in that business wishing to re-commence farming would be regarded as a new entrant (unless in the 5 year period they belonged to another business) and required to apply for a new business ID. They will need to complete form FB1 and go through the full separateness process. If successful they will then be allocated a new business ID.

Business Registration – application for a DAERA Business ID (Form FB1)

We cannot pay you unless you are registered with us as a farm business and have a business ID. If you are a new farm business and are not registered with the Department, you should contact your local DAERA Direct Office **immediately** to get advice and Form FB1 (Application for DAERA Business Identifier). You can also download this form from our website at <https://www.daera-ni.gov.uk/publications/business-change-forms>.

As the registration process can take time, you are strongly advised to do so as soon as possible. This form must be received by us, where possible, before and no later than the date you submit your SA. We should receive your SA by 15 May or penalties may apply and your payment reduced.

Business categories

We have 3 categories of business ID:

Category 1:

Subject to meeting scheme conditions, a category 1 business ID enables the business to hold payment entitlements, receive BPS and all other EU Area-based scheme payments.

Category 2:

For projects applying for rural development funding measures, other than those measures where there is a category 1 business ID requirement. If the applicant already holds a category 1 business ID, a separate category 2 business ID will not be provided.

Category 3:

Those farm businesses that hold a small number of animals are given a category 3 business ID. If you hold a category 3 business ID and wish to apply for BPS or other schemes, your farm business will need to be assessed to ensure it meets the separateness requirements for a category 1 business.

If you wish to seek funding under any of the EU Area-based schemes listed on the SA you **must** have a category 1 business ID.

Separately managed businesses

You can send in separate SAs for different farm businesses in which you are involved **only** if you manage them as separate businesses according to certain conditions. It is your responsibility to demonstrate that the businesses are separate. In deciding whether they are separate, we may need to seek further information from you.

Associated businesses

The Department reserves the right to refuse or revoke a business ID where it considers that 2 or more businesses are not separate.

In previous years, as part of the Department's assessment of applications to BPS, it carried out a number of cross checks aimed at ensuring that only those businesses that are genuinely separate were able to access funding under the BPS and other Area-based schemes.

In 2018 and beyond the Department will continue to look at farm businesses that are identified as having an association and farm businesses may be asked to demonstrate that each of the associated farm businesses are separate.

Operational separateness relates to the separateness of cropping, stocking, feed, fertiliser, stock housing, machinery, labour, land for grazing, livestock records, farm plans, registration, herd marks, etc. of a business. In particular, any herds / flocks must operate completely independently of any herds / flocks belonging to another business.

It is expected that each farm business ID will normally be able to demonstrate the following:

- separate farmyard, housing and handling facilities for animals;
- herds / flocks not mixing with animals belonging to another business ID;
- separate machinery (sharing of machinery that would typically occur between separate farms is acceptable but not to such an extent that one business is highly dependent on another business for machinery or in practice there is one set of machinery for both businesses);
- feedstuffs, silage and other inputs are sourced independently and stored separately from that of another business;
- there are normal commercial trading arrangements for transfer of animals and purchase of inputs and capital equipment including with other farm businesses **and**
- separate legal status (e.g. the business has separate accounts)

Farm businesses that are genuinely separate should be able to demonstrate their separateness with relative ease.

For further information on the rules for allocating a business ID and assessing if a farm business is separate from another farm business you should refer to the DAERA guidance on 'DAERA identification numbers for business customers, herd and flock keepers' which is available on the Department's website at:

<https://www.daera-ni.gov.uk/publications/daera-identification-numbers-business-customers-herd-and-flock-keepers>

If you consider that your farm business may not meet the requirements to be regarded as a separate business, then you should consider completing form BC3 to merge the associated businesses. This is especially the case if your herd/flock is associated with a herd/flock belonging to another business. Form BC3 can be obtained by accessing <https://www.daera-ni.gov.uk/publications/business-change-forms>.

A merger is unlikely to have any practical impact on the operation of your farm business as it is possible to have more than one herd/flock number under one business ID and payments received from DAERA can be divided among partners as they decide.

If you are thinking about applying for a business ID you need to consider whether you are setting up a separate farm or becoming involved in/taking over an existing farm business. If it is the latter a new business ID will not be allocated and you should become a member of the existing farm business.

Changes to your business structure

There are a number of Business Change (BC) forms and if you have a change in your business details you need to notify us by completing the relevant BC form.

Form BC1 - to notify us of a change to the membership of a business (including trading title and change of address).

Form BC3 – to notify us of a request for a business merger and request that payment entitlements held by those businesses are merged into one farm business.

Form BC4 – to notify us of a request for a business scission and request that payment entitlements held by the original farm business are divided and transferred to the new businesses created as a result of the scission (split).

Further information can be found in the 'Guide to Business Changes' booklet.

<https://www.daera-ni.gov.uk/publications/2018-guide-business-change>

What to do if a member of the business dies.

If a member of a farm business dies (either a sole trader or a member of a multi-member business) it is important that the personal representatives of the business or the authorised person (agent) acting on the behalf of farm business, contact us in writing as soon as possible.

In the case of multi-member businesses we will continue to deal with the remaining members and it is for the Executors and remaining members to agree on the management of the business.

If you do not notify us of the death of a business member we will not be able to transfer entitlements to the beneficiaries of the Estate and any payment that may relate to the entitlements held by the deceased may not be paid.

Beneficiaries must be a registered farm business with us and must hold any inherited entitlements on the 15 May of the given scheme year in order to claim BPS. **If this business is not in place by 15 May you should arrange to have the application form completed by whoever is acting on behalf of the deceased.**

Transfer of payment entitlements as a result of a business change

Where a BC means a transfer of entitlements from one business to another by gift, sale or lease, you can transfer using the Department's online transfer service at www.daera-ni.gov.uk/services/daera-online-services. You will need to do this on or before **2 May 2018** for the transfer to take place for the 2018 scheme year. If you encounter any difficulties using the online services you should contact 0300 200 78748 to request help and guidance.

In the case of inheritance (actual or anticipated), a paper form TE1 **MUST** be completed and received by us before 2 May 2018. If your application is received after the deadline it will not be accepted for any reason. We are not responsible for forms being lost or delayed in the post. It is important that you ensure the correct postage has been paid. Proof of postage is not proof of receipt. Force majeure/exceptional circumstances will not be considered.

Where there is a BC that requires a transfer of entitlements because of a business merger or scission, form BC3 (merger) or BC4 (scission) must be completed to transfer any entitlements as a result of the business merger or scission. These forms are available by accessing www.daera-ni.gov.uk/services/daera-online-services.

If you want the transfer to take effect for the 2018 BPS scheme year, the closing date for completion of online transfers or receipt of paper applications using form TE1, together with any supporting documentation, is **Wednesday, 2 May 2018**.

Further advice can be found in the 'Guide to Transfer of BPS Entitlements' and the 'Guide to Business Changes' booklets at:

<https://www.daera-ni.gov.uk/publications/2018-guide-trading-entitlement>

<https://www.daera-ni.gov.uk/publications/2018-guide-business-change>

If you have any questions in relation to the inheritance of entitlements and how to notify us of a death, you should telephone 0300 200 7848 and ask to speak to someone in the Area-based Schemes Payment Branch.

8. Payment entitlements

Introduction

You are advised to pay particular attention to this Section to make sure you are aware of the rules on activation and confiscation of payment entitlements.

Payment entitlements form the basis of the BPS and are what farm businesses use to get paid BPS each year. While you own the entitlements, access to the BPS will depend on you activating (using) your payment entitlements and declaring an equivalent number of eligible hectares in order to claim BPS. You must also meet the active farmer requirements which are set out in Section 6 of this Guide.

Additional entitlements can be established in 2018 under the Regional Reserve (RR); applications for which opens in March each year. To find out more you should refer to the Guide to the Young Farmers' Payment/Regional Reserve 2018.

<https://www.daera-ni.gov.uk/publications/young-farmers-payment-regional-reserve-2018>

It is also possible for you to receive more entitlements by lease or purchase from a farm business which currently holds entitlements and wants to lease or sell them. See 'Transfer of payment entitlements' below for further information.

Activating your payment entitlements, confiscation and the 2 year rule

2017 was the first year of the BPS when payment entitlements could be confiscated for non-usage. We no longer rotate entitlements on behalf of farm businesses. It is your responsibility to manage and activate your entitlements for payment.

You must activate all of your entitlements in at least one scheme year over any 2 year period, except in cases of force majeure or exceptional circumstances.

Any entitlement that remains unused for 2 consecutive years is automatically taken off you (confiscated) and returned to the RR.

If you did not activate (claim payment on) all of the entitlements held by your farm business in 2017 you are advised to activate these entitlements in 2018 to avoid losing them.

There may be a number of reasons why you did not activate all of the entitlements held by your business in 2017. For example:

- You did not submit a 2017 SA.
- You were not farming sufficient eligible agricultural land in 2017 to activate all of your entitlements.
- We identified that some of the land declared on your 2017 SA was not eligible for payment.

If, for whatever reason, you did not activate some entitlements for payment in 2017, or you will not be farming sufficient eligible agricultural land to activate all the entitlements held by your business on 15 May 2018, you are at risk of losing some or all of the entitlements not activated for payment in 2017.

If you have transferred/leased out entitlements to another farm business and that farm business did not activate those entitlements for 2 consecutive years they will be confiscated under the 2 year rule and will not be returned to your farm business. It is in your interests to obtain an assurance from the farm business that you have transferred/leased entitlements to, that all entitlements have been activated at least once every 2 years.

You should also be aware that we no longer rotate entitlements on behalf of farm businesses. In accordance with EU rules the Department must activate the highest value entitlements held by a farm business. So, if you hold an entitlement of a lower value this will not automatically be activated by us for payment in 2018 just because it was not activated in 2017. Also, we do not make any distinction between standard and RR entitlements or between those owned by your farm business or leased in from another.

Therefore, if in May 2017 you held 'leased in' entitlements which were higher in value than those 'owned' by your farm business we will have activated the leased in entitlements first and the entitlements 'owned' by your business may be at risk of confiscation in 2018 if they are not activated.

Examples:

1. **No claim made in 2017.** You held and activated 30 entitlements in 2016 but did not submit a SA in 2017 nor transfer your entitlements in 2017. If no SA is submitted in 2018 and your entitlements are not transferred all 30 entitlements will not have been claimed for 2 consecutive years and will be confiscated prior to 2019 scheme year.
2. **Less land claimed in 2017 than in 2016.** In 2016 you activated 40 entitlements. In 2017 you declare 35 ha of eligible land and activate 35 entitlements. If you declare 35 ha of eligible land again in 2018 5 entitlements will not have been claimed in 2 consecutive years and will be confiscated.
3. **Entitlements 'leased in' to the business.** You established 10 entitlements in 2015 @ €200 each. In 2017 you leased in 10 entitlements for 3 years @ €250 each, giving you a total of 20 entitlements for 2017. In 2017 you declared 18 ha of eligible land. The highest value entitlements are activated first. So, in 2017, 10 entitlements @ €250 and 8 entitlements @ €200 are activated; 2 entitlements were not activated. If you declare 18 ha of eligible land again in 2018, 2 entitlements @ €200 will not have been claimed in 2 consecutive years and will be confiscated.
4. **Entitlements 'leased out' to another business.** In 2016 you leased out 40 entitlements. In 2017 the lessee declared 30 ha of eligible land and activated 30

entitlements. If the lessee declares 30 ha of eligible land and activates 30 entitlements in 2018, 10 entitlements will not have been claimed in 2 consecutive years and will be confiscated prior to 2019 scheme year.

Transfer of payment entitlements

You may sell or lease your surplus entitlements. If you did not activate your payment entitlements in 2017 but if they are activated by the buyer/lessee in 2018 they will not be confiscated. To do this you should use the online Entitlement Transfer Service. If there is exceptional circumstances which have been agreed by the SAF Advisory Team you can complete a paper TE1 transfer application.

If you want the transfer to take effect for the 2018 BPS scheme year, the closing date for completion of online transfers or receipt of paper applications using form TE1, together with any supporting documentation, is **Wednesday, 2 May 2018**.

Note: If your paper application is received after the deadline it will not be accepted for any reason. We are not responsible for forms being lost or delayed in the post. It is important that you ensure the correct postage has been paid. Proof of postage is not proof of receipt. Force majeure/exceptional circumstances will not be considered.

If your entitlements were not activated in 2017 and you did not meet the transfer deadline for 2018, then your unused entitlements will automatically be confiscated and the transfer application will be rejected.

Where a farm business leases in or buys entitlements which they did not hold in the previous year, the 2 year usage rule re-starts. In other words, once the entitlement has transferred for 2018, it is irrelevant whether the entitlement was activated in the 2017 year. It is only the entitlement(s) held by the buyer or lessee for 2 years that are to be considered for confiscation.

Entitlements can be transferred:

- by sale or gift;
- by lease;
- through inheritance (actual or anticipated)
- as the result of a merger or scission of a business.

Payment entitlements can only be transferred within the region of origin.

Payment entitlements can only be transferred to a farm business which has land located in Northern Ireland except in the case of actual or anticipated inheritance. In all cases entitlements can only be activated using land located in Northern Ireland.

If you are considering transferring payment entitlements you should read the 'Guide to Transfer of Payment Entitlements' (see Section 1). If you have any problems understanding these rules, please contact the Area-Based Schemes Payment Branch.

Adjustments to the gross value of your payment

The payment you receive will be based on the number of BPS entitlements you hold and the value of those entitlements for that scheme year. In Northern Ireland the BPS payment, excluding the Greening Payment and YFP, will be capped at €150,000 in any given year.

Payments will be subject to financial discipline and other reductions. Payments may have to be reduced to respect financial ceilings linked to the BPS, YFP and Greening Payment or because of administrative penalties if scheme conditions have not been met.

The order of reductions is:

- over-declaration penalty (if applicable);
- late claim penalty (if applicable);
- non-declaration penalty (if applicable);
- financial discipline and/or deductions to respect financial ceilings*;
- Cross Compliance penalty (if applicable) and
- offset of penalties from previous years (if applicable).

*Payments are no longer subject to modulation reductions.

The unit value of entitlements and convergence towards a flat rate

The unit value of entitlements allocated to you in 2015 will move towards a flat rate in equal annual steps from 2015 to 2019. This is in accordance with EU legislation and is known as 'convergence towards a flat rate'. The rate of transition will be consistent with achieving a flat rate payment by 2021.

However, arrangements after 2019 scheme year will depend on negotiations concerning the exit of the UK from the EU, decisions taken by the UK government and devolved administrations in relation to agricultural support and possible future EU CAP Reform decisions.

'Flat rate' means that all ha of land in a region would attract the same level of support, instead of the previous system where many different entitlement rates (€/ha) existed within the BPS.

You will have received an entitlement statement showing the entitlements you established in 2015, how these were calculated and the unit value of these entitlements from 2015 to 2019.

9. Amendments, preliminary checks, corrections or withdrawals of single applications (SAs)

Introduction

To avoid any delay in payment or to avoid being penalised you should ensure you complete your application accurately. If we have already told you about a problem with your application or if we have given notice that an inspection will be carried out and this inspection then reveals an irregularity, you **cannot** withdraw or change the part of the application affected by the irregularity.

Amendments to your Single Application

You can make amendments to your SA online (**up to and including 31 May without penalty**) to increase the area you have claimed. For example, to add fields if you are using them to support a claim for BPS. You can also make changes regarding use and aid scheme **for fields already included in the application**.

If we receive your amendment to increase the area you have claimed between 1 June and 11 June inclusive, we will reduce your payment relating to the fields in question by 1% for each working day the amendments are late. We cannot accept such amendments after 11 June.

For example, if you have declared 20 ha of land and realise you should have declared 25 ha you can amend your application online up to 11 June. You can add the 5 ha to your application up until 31 May and no penalty will be applied. If you do this between 1 June and 11 June inclusive we will treat this as an amendment but a late application penalty will be applied to the additional 5 ha.

Preliminary Checks (if carried out by the Department)

If we find the following issues with your 2018 SA, we may be able to write to you and give you the opportunity to correct your SA and avoid potential financial penalties where for example:

- you have claimed a field which is not recognised by us;
- you have claimed an area greater than the MEA;
- you have claimed a field which has also been claimed by another farm business.

There may be other checks in addition to those mentioned above.

Under EU Regulations we must notify farm businesses of the outcome of preliminary checks by 12 June (one day after the SA closing date) with farm businesses having up to 21 June to allow applications to be amended.

If you receive a letter outlining any of the above issues, you **must** reply before the 21 June deadline. **Modifications received after 21 June 2018 will not be accepted** and will be

subject to reductions and penalties as applicable except in cases of force majeure / exceptional circumstances.

Important

You should be aware that preliminary checks are optional for the Department and can only be carried out if resources permit these to be completed within the very tight timescales required.

Consequently, there should be no expectation that any preliminary checks will be carried out by the Department or that certain errors detected by the Department may be corrected after the application deadline of 31 May without penalty.

The onus remains with you to take the upmost care with your application to ensure that it is accurate otherwise reductions and penalties may be applied to your payment.

Obvious errors

The Department has limited scope to correct claims where there are 'obvious errors', that is where they can be straightforwardly identified at a clerical check of the SA. The scope of 'obvious error' is itself limited under Commission guidance but the Department takes a 'common sense' approach to cases within these limits.

Decisions on whether or not to apply obvious error depend on the overall facts and circumstances of each individual case, and we must be satisfied with the obvious nature of the error involved. We cannot consider such errors in a systematic manner but must examine each and every case individually.

An error is not 'obvious' when, for example, it is 'explained by a farm business or agent'.

We would consider the following list to be obvious errors:

- Mistakes due purely to a clerical error, which are obvious during a simple examination of the claim (such as a box not filled in or missing information).
- Incorrect statistical information.
- Mistakes found as a result of conflicting information, which is clear during a more in-depth examination (manual or computerised) of the claim, which compares information, including supporting documentation, such as maps.
- Mistakes in calculations.
- Anomalies involving field numbers or references which we find during cross checking of the claim with databases such as the field identification system.
- Figures reversed (for example, farm survey number 169 instead of 196).

We will not apply penalties for obvious errors if we are satisfied that you have acted in good faith and there is no risk of fraud. You can amend obvious errors at any time but such errors do take time to resolve and can lead to substantial delays to your payment. You should make sure that you complete your application form completely and accurately

and avoid errors. Not all mistakes can be described as obvious errors and may result in penalties being applied to your payment.

The Regulations maintain that the farm business is responsible for the claim and is expected to take steps to ensure that the claim is accurate, even where an agent is involved.

Notified errors

After 11 June you may realise that you have made a mistake in your application form but cannot make any amendments online. You can correct your application form at any time as long as you let the Area-based Schemes Payment Branch in Orchard House know, **in writing, before** we tell you about an on-farm inspection and provided we have not already told you about an error in your application.

Generally SAs cannot be amended after 11 June to increase areas claimed. If you notify us of an error after that date, we will correct your application and you will not be penalised but **you cannot receive payment on the adjusted area.**

If we have already told you about a problem with your application, we have given you notice that an OTSC will be carried out or if you have been selected for a Control with Remote Sensing (CwRS) inspection which then reveals an irregularity, you **cannot amend, withdraw or change the part of the application affected by the irregularity.**

Withdrawal of land

You can choose to withdraw all or part of your application for payment from any aid scheme at any time, as long as we have not told you about any mistakes in your application or told you of an inspection which subsequently reveals errors in respect of the withdrawn information. You must make your application to withdraw **in writing** to the Area-based Schemes Payment Branch (see Section 14 Contact Details).

You are still obliged to provide us with details of all the land you farm, even if you are not claiming for that land. If you are withdrawing a field or fields from your application for payment, **you should only withdraw from the aid scheme you no longer wish to claim for.** In other words you should withdraw from columns G for BPS for but not from columns A – E to avoid possible penalties.

10. On-the-spot checks and penalties

OTSCs (inspections)

By submitting a SA you agree to permit the Department to carry out an OTSC with or without prior notice at any reasonable time.

No payment will be made if you, or others acting on your behalf, prevent any of these checks from taking place.

CwRS

Most OTSCs are completed using remote sensing techniques, which involve interpreting ortho-images produced from satellite and / or aerial photographs of fields in relation to a claim. This helps us identify ineligible features such as buildings, laneways and other land that is not eligible to be claimed for BPS. This also includes dense and scattered patches of scrub, whin, bogs and so on.

You will receive no notification in advance that the check is being undertaken. However, in the event of a rapid field visit or follow up ground check being required to confirm details, you may be contacted by DAERA staff regarding the visit.

Classic OTSC

If a classic OTSC is being completed an inspector will visit your farm. For health and safety reasons the inspector will try to contact you prior to the check, usually by phone, advising you of the time and date. The check may go ahead if contact cannot be made.

It is not necessary for you to walk the fields with the inspector. However you should arrange to be present at the end of the inspection to discuss the findings and sign off the inspection report. If you are unavailable you should nominate a representative in your place to sign the report in your absence.

Inspection report

Every inspection (Classic OTSC and CwRS) will be the subject of a final report. Where irregularities have been identified you will be given the opportunity to make comments on the inspection findings.

It is not possible for an inspector to advise of the effect on your claim of ineligible areas or non-compliances detected at inspection. If penalties are to be applied to your claim you will be notified by Area- Based Schemes Payment Branch at a later date.

How SAs are selected for an OTSC eligibility check

In accordance with EU legislation we must carry out OTSCs on 5% of applicants to check eligibility for BPS. Between 1% and 1.25% of these are selected randomly. The remaining 3.75% - 4% are selected using criteria set out by the EU.

Approximately 1% of applicants will also be selected for verification of the CC standards that come under the responsibility of each of the authorities designated to undertake CC inspections.

Examples of how penalties are applied to SAs

If you do not meet the eligibility criteria for the BPS you may have a penalty applied to your SA. The following examples explain the circumstances when you may be penalised.

Penalties for late applications (received after 15 May 2018)

If we receive your application on or between 16 May 2018 and 11 June 2018 we will reduce your payment **under all the schemes you have claimed on the SA by 1% per working day**, except in cases of force majeure or exceptional circumstances.

If you are applying for entitlements from the RR in 2018 then the penalty is 4% per working day on payments under the BPS associated with any entitlements allocated from the RR.

No applications will be accepted on or after 11 June 2018 except in cases of force majeure or exceptional circumstances.

Example:

If we receive your application on 18 May 2018 (that is 3 working days late, 16, 17 and 18 of May) you will lose 3% of the value of aid for each scheme claimed. For entitlements allocated from the RR in 2018 you will lose 12% of the value of aid under the BPS associated with these entitlements.

Penalties for amendments to applications (between 1 and 11 June 2018 inclusive)

Applications already received by us may be amended to increase the area you have claimed but you will be penalised on the amended fields. We will reduce your payment **under all the schemes you have claimed by 1% per working day between 1 and 11 June 2018**. From 12 June 2018 no amendments will be accepted.

If you are applying for entitlements from the RR in 2018 then the penalty is 4% per working day between 1 and 11 June 2018 on payments under the BPS associated with any entitlements allocated from the RR.

For example:

On 7 June 2018 you add 2 additional hectares on your SAF2 (FDS) which will allow you to activate 2 more BPS entitlements.

You will lose 5% of the payment due in respect of the added land for the aid schemes the land is used to support. This will be for Friday, 1 June, Monday, 4 June, Tuesday, 5 June, Wednesday, 6 June and Thursday, 7 June.

Important: If you have already been notified of an error in your SA or notified of an inspection which subsequently reveals errors, you cannot rectify the error or amend details of the area of land concerned.

Non-declaration of land

Penalties will apply to your BPS, Greening Payment and YFP if you fail to declare all the agricultural land on your holding.

You must declare all the agricultural land you have on 15 May in the scheme year on your SAF2 (FDS) including forestry and common land even though you are not using some of the land for claim.

If there is a difference between the total area you declare and the total agricultural land that you should have declared, we will reduce your BPS payment as follows:

Difference	Reduction
Up to 3% or 2 ha	No reduction in payment
More than 3% and not exceeding 20%	1% reduction
More than 20% and not exceeding 50%	2% reduction
More than 50%	3% reduction

For example:

You hold 100 BPS entitlements.

You declare 100 ha on your SA.

We find 125 ha. Therefore, non-declaration is 25% ($25/100 \times 100$).

We will reduce your BPS, Greening Payment and YFP (if applicable) by **2%**. All your entitlements have been activated for the BPS scheme year.

Over-declaration of land

If, as part of our administrative and OTSCs, we find you have claimed on more land than you should have, we will apply over declaration penalties.

Circumstances when we may apply over declaration penalties include:

- If we find you have claimed on ineligible areas.
- If we find you claimed BPS on land on which you do not meet the active farmer requirements or are not undertaking any agricultural activity.
- If you duplicate fields or land areas with another farm business.

You will not be penalised if you declare more eligible land than you need to activate all the entitlements you are claiming and we find the area is equal to or more than the number of payment entitlements you are activating.

For example:

Number of entitlements held = 10

Number of eligible ha declared = 15

Number of ha found = 12

You will be paid on all 10 entitlements because you have sufficient ha available to support your claim.

New penalty thresholds

In 2016 the EU Commission introduced new lower penalty thresholds for over declaration of land.

How the new penalty regime works

- Small over declarations that are up to 3% of the area determined and 2 ha are not penalised but the payment is reduced and based on the area determined by us.
- Where the over declaration is more than 3% of the area determined and 2 ha the payment is calculated based on the area determined as eligible by us and reduced by 1.5 times the area of the land that has been over declared. The penalty shall not exceed 100% of the amount payable based on the area declared.
- In cases where the applicant did not previously receive an over declaration penalty for the same scheme and the difference between the area declared and the area determined is less than 10% of the area determined, the administrative penalty is reduced by 50%. This is known as the 'yellow card' penalty. However if it is found that the applicant has an over declaration again the following year, the full penalty will be imposed for both years.

Yellow card for 2017 over declarations

If you over declared on your 2017 SA and were one of those farm businesses eligible to benefit from the 'yellow card' reduced penalty, we will have written to you and provided you with details of your 2017 payment for the BPS and Greening Payment.

The reduced penalty can only be applied **once** to a farm business for a particular scheme. If you benefitted from the 'yellow card' penalty in 2017, a reduced penalty cannot be applied again should you over declare in 2018 or thereafter.

If you over declare for BPS in 2018 we will apply the full penalty for 2018 plus the full penalty will be imposed for 2017.

Yellow card for 2018 over declarations

If you over declare on your 2018 SA you can receive a reduced administrative penalty if this is a 'first offence' in respect of small over declarations.

The 'yellow card' penalty reduction only applies where the difference between the area activated and the area determined **is 10% or less of the area determined**. If it is more than 10% of the area determined the penalty is based on 1.5 x by the difference between the area activated and area determined.

Example 1 -

2018 - Over declaration between 3% and 10% or below 3% but exceeding 2ha.

It is identified that the over declaration also applies to **2017, 2016, 2015, 2014** at the same level as 2018, i.e. between 3% and 10% or below 3% but exceeding 2ha.

- (i) Yellow card should be applied in respect of 2014.
- (ii) 2015 administrative penalty to be based on the difference between the area activated and the area determined multiplied by 1.5.
- (iii) Requirement to recover 50% reduction applied in 2014, as further over declaration incurred in 2015 resulting in an administrative penalty.
- (iv) From 2015 onwards the normal penalty applies, i.e. based on the difference between the area activated and the area determined multiplied by 1.5. The applicant cannot get the benefit of the yellow card in the future for BPS.

Example 2

2016 – Over declaration less than 3% and 2 ha –

No administrative penalty applies, payment based on determined area.

2017 – Over declaration between 3% and 10% or below 3% but exceeding 2ha–

Yellow card applies as no administrative penalty applied in 2016.

2018 – Over declaration greater than 10% -

- (i) 2018 administrative penalty to be based on the difference between the area activated and the area determined multiplied by 1.5.
- (ii) Requirement to recover 50% reduction applied in 2017, as further over declaration incurred in 2018 resulting in an administrative penalty.

You should take care when completing your 2018 SA to ensure that it is accurate and avoid over declaration penalties.

If you appoint an agent to complete your SA it is still your responsibility to ensure the land declared on the SA is correct.

11. Force majeure or exceptional circumstances

Definition of force majeure or exceptional circumstances

Force majeure or exceptional circumstances is defined as ‘unusual circumstances, outside the control of the trader, the consequences of which, in spite of the exercise of all due care, could not have been avoided except at the cost of excessive sacrifice’. A farm business may experience a force majeure incident or exceptional circumstance that impacts on his ability to meet the requirements for the BPS.

Cases of force majeure and exceptional circumstances are determined against their particular circumstances and on an individual basis.

Late applications

The EU Regulations allow for us to consider cases of force majeure or exceptional circumstances as a reason for not submitting or amending your application on time.

Land taken out of production due to force majeure or exceptional circumstances

You should always notify the Department at the earliest possible opportunity of any force majeure situation that renders a portion of land out of agricultural use **even if only for a short time**.

So, if for reasons of force majeure or exceptional circumstances some, or all, of your land is not available to you on 15 May, or is ineligible for BPS or any other area-based scheme, at any time during the year, **you should tell us when you submit your claim or if you have already submitted your claim you should tell us within 15 working days of the date of being in a position to do so**.

If you do not, and we later discover that the land was taken out of production at any time during the year, we may consider that there is an over-declaration of land and apply a penalty to your claim.

For us to consider force majeure or exceptional circumstances, the land must be unavailable to you on 15 May in the scheme year or ineligible for BPS for at least some part of the calendar year.

The land must be able to be returned to agricultural use or become eligible for BPS. You must provide clear documentation indicating when the land is likely to come back into agricultural use.

If your land is ineligible for BPS for the whole year, and is removed permanently from agricultural use, we will not consider force majeure or exceptional circumstances. Should this happen you will have to obtain other eligible land to claim payment of BPS in such circumstances.

Land temporarily removed from agriculture

Examples of eligible force majeure or exceptional circumstances events will be those that temporarily remove the land from the farmer's agricultural business. These may include:

- Land vested by a utility for work where the land is returned to agricultural use after the work is complete, for example, pipe laying.
- Eligible land which has been damaged as the result of an event, for example, gorse wildfire or floods.

Force majeure or exceptional circumstances will be considered if you have signed an agreement, or are similarly committed to permitting work to take place but the consequences of not doing so would be that a vesting order would be applied. You will be required to provide evidence of when you were made aware of the work or the intention to apply for a vesting order.

If your land has been purchased as part of a vesting order we may accept force majeure or exceptional circumstances in relation to your claim for BPS **for that year only**.

If your land has been burned maliciously then you need to provide evidence that you reported this to the Police Service of Northern Ireland or the Northern Ireland Fire and Rescue Service.

Flooding event in August 2017

The Department is conscious that the consequence of the flooding in 2017 **may** continue to have an impact on some farm businesses during the 2018 scheme year.

To be able to claim force majeure in the 2018 scheme year the land must be able to be returned to agricultural use or become eligible for BPS. Land which will return to agricultural use within a reasonable time without intervention as a result of natural regeneration, will also be considered under force majeure in 2018. Land that has been permanently removed from agricultural use as a result of the flooding in 2017 is not eligible for force majeure in 2018.

If you still have land that remains part of your holding and is temporarily unavailable for agricultural activity or eligible woodland use during the whole or part of the 2018 scheme year as a result of the flooding in 2017, you must:

- (i) include that land on your 2018 SA,
- (ii) submit a paper application for force majeure (Form FML 1) to Area-based Schemes Payment Branch, Orchard House to be received no later than 15 May 2018, and
- (iii) provide evidence, where appropriate, of the efforts made/steps taken to return this land to agricultural activity to date together with an indication of when this land will come back into agricultural use for consideration.

Each application will be considered on a case by case basis.

Land permanently removed from agriculture

The payment of BPS in relation to land becoming ineligible is dependent on whether the land is permanently removed from agriculture or whether it will be returned to agricultural use at some point.

If you have land that is permanently removed from agricultural use, for example, land that is actually taken up by a new road, it is possible to pay BPS on this area in the year in which the land is taken out of agricultural use. After this you need to make other arrangements to have eligible land to support activation of your entitlements.

If the land is to be returned to agricultural use it is possible to claim payment using the land during the period it is not in agricultural use.

Such areas would normally be set aside for storage of materials and equipment used in the construction of road works and then returned to you for agricultural use. However, the period of removal from agricultural use would have to be reasonable, for example, 2 years.

Roads Division Guidelines

Roads Division within the Department for Infrastructure has produced guidelines, with the assistance and input from the Ulster Farmers' Union, to inform and advise farm businesses and landowners of the development processes that Roads Division normally adopts when bringing forward proposals for a major road improvement scheme.

These guidelines can be found at:

<https://www.infrastructure-ni.gov.uk/publications/guidelines-acquisition-landproperty-major-road-development-northern-ireland>

Notifying a force majeure event to DAERA

Should you consider force majeure applies to your application because of any unforeseen event, you are advised to contact Area-Based Schemes Payment Branch immediately for advice. You should be aware that for us to consider a case of force majeure or exceptional circumstances we need to be told in writing at the same time as **you submit your application online (prior to the closing date of 15 May 2018) or if you have already submitted your application you should tell us within 15 working days of the date of being in a position to do so.**

When you tell us of a force majeure you will be asked to complete a paper form FML1 application available on the DAERA website and return it to Area-Based Schemes Payment Branch. We will look at each request on a case by case basis and where we agree that force majeure or exceptional circumstances have been demonstrated, we will not normally apply penalties.

You will have to prove that, despite taking all reasonable measures to counteract their effects, the force majeure or exceptional circumstances prevented you from meeting your obligations. You must be able to provide information, supported by documentary evidence, of the steps you have taken to prevent or lessen the effect of these circumstances.

It is important that you do not wait until the Review of Decisions stage to notify the Department of force majeure or exceptional circumstances, as this will normally be considered to be outside the 15 working day notification period.

12. Review of Decisions

Under the Review of Decisions procedure applicants have a right to request a review of a decision made by the Department in relation to their area-based scheme claims. This procedure includes the BPS. .

The review process is intended to provide applicants with a fair, impartial and transparent assessment of the Department's decision against the framework of EU and National Regulations and Scheme Rules. The aim of the procedure is to ensure that the decision made is correct and in line with the appropriate Regulations and Scheme rules.

The Department launched a public consultation on a new Review of Decisions process for area-based schemes in 2017. As a result the Department has decided to introduce a new, single stage, Review of Decisions process from the 2018 scheme year. The current 2-stage Review of Decisions process will close to new applications when the new process is formally launched. Applications lodged under the current process will go through that process until its conclusion.

Further details will be published on the Department's website when available.

13. EU Legislation and glossary of terms

EU Regulations Governing BPS Payment Entitlements

1. **Regulation 1306/2013** on the financing, management and monitoring of the common agricultural policy;
2. **Commission Delegated Regulation 640/2014** supplementing 1306/13 with regard to the IACS and conditions for refusal or withdrawal of payments and administrative penalties to direct payments, rural development support and cross compliance;
3. **Commission Implementing Regulation 809/2014** laying down rules for the application of Regulation 1306/13 with regard to IACS, rural development measures and cross compliance;
4. **Regulation 1307/2013** establishing rules for direct payments to farmers under support schemes within the framework of the CAP;
5. **Commission Delegated Regulation 639/2014** supplementing Regulation 1307/13 establishing rules for direct payments;
6. **Commission Implementing Regulation 641/2014** laying down rules for the application of Regulation 1307/13

You can find the relevant EC Regulations on the European Union website at www.eur-lex.europa.eu/en/index.htm

Glossary of terms

BC	Business Change
BPS	Basic Payment Scheme
CAP	Common Agricultural Policy
CwRS	Control with Remote Sensing
DAERA	Department of Agricultural, Environment and Rural Affairs
EFS	Environmental Farming Scheme
EU	European Union
FDS	Field Data Sheet
GAEC	Good Agricultural and Environmental Condition
ha	hectares
IACS	Integrated Administration and Control System
LPIS	Land Parcel Identification System
MEA	Maximum Eligible Area
NAP	Nitrates Action Programme
NIEA	Northern Ireland Environment Agency
PC	Permanent Crop
PG	Permanent Grassland
OTSC	On-the-spot checks
Rol	Republic of Ireland
RPA	Rural Payments Agency - England
RPS	Rural Payments and Services Scotland

RPW	Rural Payments Wales
RR	Regional Reserve
SA	Single Application
YFP	Young Farmers' Payment

14. Contact details

Contact Us:

If you have a specific query you can contact us using the email addresses or telephone number below. If you have a farm business ID please quote it on all correspondence or have it to hand before you call.

Email:

Grants and Funding Helpline: areabasedschemes@daera-ni.gov.uk

Telephone:

You should use the telephone number below for all area-based scheme queries:

Grants and Funding Telephone Number: **0300 200 7848**

Useful Addresses:

If you wish to send your query by post you should send it to:

Area-Based Schemes Payment Branch
Orchard House
40 Foyle Street
Derry/Londonderry
BT48 6AT

Or you can visit your local DAERA Direct Office as listed overleaf.

DAERA Direct Public office opening hours are 9.00am - 4.00pm each working day.

Armagh	Ballymena	Coleraine
Atek Buildings Edenaveys Industrial Est Newry Road Edenaveys Co Armagh BT60 1NF	Academy House 121A Broughshane St Town Parks Ballymena Co Antrim BT43 6HY	Crown Buildings Artillery Road Mullburn Coleraine Co Londonderry BT52 2AJ
Downpatrick	Dungannon	Enniskillen
Rathkeltair House Market Street Demesne of Down Acre Downpatrick Co Down BT30 6LZ	Crown Buildings Thomas Street Drumcoo Dungannon Co Tyrone BT70 1HR	Inishkeen House Killyhevlin Enniskillen Co Fermanagh BT74 4EJ
Mallusk	Magherafelt	Newtownards
Castleton Hs 15 Trench Road Grange of Mallusk Mallusk Newtownabbey Co Antrim BT36 4TY	Units 36-38 Meadowlane Shopping Ctr Moneymore Road Townparks of Magherafelt Magherafelt Co Londonderry BT45 6PR	Sketrick Hs 16 Jubilee Road Corporation South Newtownards Co Down BT23 4YH
Newry	Omagh	Strabane
Glenree House Unit 2, Springhill Road Carnbane Industrial Est Carnbane, Newry Co Down BT35 6EF	Sperrin House Sedan Avenue Lisnamallard Omagh Co Tyrone BT79 7AQ	Government Offices 18 Urney Road Strabane Co Tyrone BT82 9BX

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