

Single Payment Scheme

Information for farmers and growers
in England

July 2004 update

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Further copies of this publication (quote reference PB 9937) are available from:

Defra Publications
Admail 6000
London SW1A 2XX

Tel: 08459 556000

Fax: 020 8957 5012

E-mail: defra@iforcegroup.com

From the Office of Lord Whitty, Minister for Food, Farming and Sustainable Energy

When I wrote to you in May, I said I wanted to ensure that each of you is as well informed as possible about the implementation in England of the reform of the Common Agricultural Policy (CAP). This is fundamental to the delivery of our Strategy for Sustainable Farming and Food, which is designed to assist farming to make the changes needed to deliver success for the sector for the long term.

This brochure features an update on the rule that land must be at the farmer's disposal for 10 months to claim payment, including guidance on the phrase 'at the farmer's disposal'. This should now help you come to reasonable business decisions in this area.

The brochure also contains the details of the policy measures announced by the Secretary of State on 22 July, including:

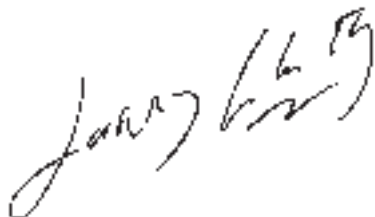
- cross compliance standards for 2005;
- the modulation rate for 2005 and 2006;
- set-aside rates for 2005; and
- Moorland Line representation arrangements.

There is a timetable of key dates and a reminder about the Information Statement being issued by the Rural Payments Agency (RPA). And you'll find an update on the process to ensure potential new claimants have the opportunity to register later in the year.

Further guidance on the implementation of CAP reform will be forthcoming over the next few months to assist you with your business planning.

I am very keen that we communicate with all those in England who may be affected by the reforms; because of this you may receive more than one copy – if you do, please telephone 0845 933 5577 so that we can prevent this happening in the future.

I would like to offer my assurance that Defra and the RPA will do whatever we can to assist you through the changes.



Lord Whitty

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Preface

Implementing last year's reforms of the Common Agricultural Policy (CAP) is central to England's Strategy for Sustainable Farming and Food. Farmers will have greater freedom to farm to the demands of the market as subsidies will be decoupled from production. At the same time, environmentally friendly farming practices will be better acknowledged and rewarded.

The application arrangements for subsidy payments are being simplified through the CAP reform, which will see ten major CAP payment schemes replaced by one new single payment.

In addition to the improvements brought about by the CAP reform, the Strategy for Sustainable Farming and Food encompasses the development of a range of new initiatives to support farmers. Defra and other government agencies are working together to reduce your administrative burden – so farm inspections will be better co-ordinated and you'll have a reduced number of forms to fill in over the course of each year. This joined-up approach is integral to the implementation of the proposed Whole Farm Approach and is a key objective of the Rural Strategy 2004.

One of the specific initiatives of the Strategy for Sustainable Farming and Food is a new online advice channel for rural businesses which is being developed and introduced over the course of 2005. This will provide improved access to online advice and information, helping you to take advantage of the business opportunities afforded by CAP reform.

Further information on these and other initiatives will be communicated as they are developed and introduced.

The 10-month rule

To claim payment under the Single Payment Scheme, a claimant must be a farmer who exercises an agricultural activity, and land that supports that claim has to be at the farmer's disposal for at least a 10-month period.

The 10-month period can begin at any time from 1 October in the year before the claim to 30 April in the year of the claim. You have the opportunity to choose your own start date; otherwise we will presume 1 February.

Only one start date is permitted per holding, and a single start date will apply to land across all three regions in England. However, if you have land in Scotland, Wales or Northern Ireland, as well as in England, a different start date may apply to land in each of these regions.

Defining 'at the farmer's disposal'

For some farmers, it will be obvious that land is 'at your disposal'. For example, if you own the land, have a tenancy under the Agricultural Holdings Act 1986 or have a farm business tenancy under the Agricultural Tenancies Act 1995 and take full responsibility for managing the land.

However, often more than one farmer carries out agricultural activity on the same area of land. In this case it will not be so clear who can be said to have the land at their disposal and therefore who is entitled to claim payment for it.

You should consider the following factors to help establish that land is 'at your disposal':

- Whether one of the farmers clearly has use of the land for less than 10 months (subject to the rules on the transfer of entire holdings).
- The actual use of the land.
- The predominant use of the land.
- Whether the claimant actually carries out an agricultural activity, which includes keeping the land in good agricultural and environmental condition. For more information on this, see the section 'Meeting cross compliance standards and requirements'.
- Who is taking the profit from the land.
- Who is taking the risks.
- The terms of any agreement between the farmers.
- The legal rights of both farmers, including the right to terminate.
- Whether the farmer concerned has the right to carry out an agricultural activity on the land.
- Who has control over the use of the land and access to it so as to ensure that it is put only to eligible uses.
- Who has control over the use of the land and access to it so as to ensure that it is kept in good agricultural and environmental condition.

This list is not exhaustive. It is intended to provide only an indication of the sorts of factors that can be taken into account when establishing that land is 'at your disposal'.

The 10-month rule

The examples on page seven show how this can work in practice.

Resolving disputed claims to payment

In some cases, it will not be clear who has the land 'at their disposal'.

However, if you have a dispute over who has the land at his disposal, or you are not sure about the effects of your particular agreement, it is in your interests to resolve any such uncertainty before claiming payment.

You should start to consider now who the rightful claimant might be and come to an agreement about the control of the land and who will submit the claim next year.

If uncertainty remains, no payment can be made until the circumstances and any relevant evidence can be properly investigated by the RPA, to ensure that the payment is made correctly to the right claimant. This may take some time. In some cases, such as where the land is genuinely shared, it will not necessarily be easy to reach a decision about who should be the legitimate claimant.

Agreements

The terms of any sub-letting and contractual arrangements can have an important effect on your ability to make a claim for payment.

You will need to reach a workable agreement that takes into account responsibility for ensuring compliance with Single Payment Scheme

requirements, actual (as well as theoretical) control of the land, ability to claim entitlement and any consideration for use of the land. We also recommend including in the agreement a clear breakdown of responsibility for each of the major cross compliance conditions, with a default position that the claimant will be responsible.

Existing agreements that have possibly lasted for many years may need to be changed in order to reflect the new situation.

A written agreement is preferable, although oral agreements may be equally valid in law.

You must be able to prove that you have land at your disposal not just through an agreement, but also through your practice on that land. If land is not in fact at your disposal, the RPA will withhold payment.

Transfers

Because only one start date per holding is permitted, this has an effect on transfers of entitlement through sale or lease once the entitlement has been finally established. Different rules apply for sales before the claim date of 16 May 2005 and leases are not allowed at all in that period.

Transferring part holdings

If you transfer a part holding with entitlements, in many cases a claim against those entitlements will be lost for one year or longer. For example, if you transfer land after the application date (15 May) but before your 10-month

The 10-month rule

period runs out, you will not be able to claim in that year, because the land has not been at your disposal for the full 10 months. The farmer receiving the land would have already started the 10-month period for his existing holding and it will be too late to add more.

If you transfer land after the application date and after the end of your 10-month period, you will be able to claim payment. However, because the date that you transfer the land will be quite late in the year, it may be after the start of the 10-month period chosen by the farmer to whom you are transferring the land. As a result, that farmer will not be able to claim payment on the transferred land that year.

Transferring whole holdings

If you transfer a whole holding, the position is different. The farmer receiving the land can continue the 10-month period you have begun, and receive payment for it. The 10-month period for the new land does not have to have started at the same time as the 10-month period for the rest of their land. However, in the claim year following the transfer, the 10-month period will have to start at the same time for all the land.

Cross compliance

Cross compliance applies for the full 12 calendar months, not just the 10-month period. If an inspection outside the 10-month period determines a non-compliance, then if the non-compliance was committed by the farmer 'himself' (interpreted to include employees and

those acting as the farmer's agents) and the farmer was in charge of the holding or production unit at the time the non-compliance was determined, the farmer's payments can be reduced.

If you sell your land after the end of the 10-month period, and in the remainder of that scheme year a non-compliance is determined on the land, you cannot have your payments reduced or be excluded from the Single Payment Scheme.

If you buy land, you will not be liable for any non-compliance on that land, unless the seller has applied for payment from the Single Payment Scheme, but this has not yet been granted when they sell the entire holding to you. Because you will now receive the payment, you are also responsible for any non-compliance, including any that may have been committed by the seller. This is explained more fully in Article 74 796/04.

You could also be liable for any non-compliance on land that you buy if the non-compliance was a continuing breach that had started to occur before the transfer, and if you maintained the non-compliance when you could reasonably have detected and stopped it.

Sanctions cannot be imposed retrospectively. They can only be applied against the total amount of direct payments granted in the year in which the non-compliance occurs. Sanctions can however be imposed for the following year in the case of serious breaches.

Establishing entitlements

In the first year of the Single Payment Scheme (2005) you will have to both establish entitlements and then, if you wish, claim against them.

To *establish* entitlements, you do not need to have land at your disposal for at least 10 months.

However, to establish entitlements you will still need to declare the number and position of the eligible hectares (to prove you are a farmer at the date of application) for which you wish to establish entitlements. That area of land must constitute all or part of your holding – and that itself implies a degree of management control. Claims to establish more than one entitlement against the same parcel of land will not be accepted.

If you establish an entitlement against a parcel of land but do not claim payment on it, you must still meet cross compliance conditions on that land if you claim payment in respect of another parcel.

Examples

A landowner wishes to claim against his own land farmed in hand.

This should be the simplest situation. If the landowner is farming the land himself and there are no other farmers involved with any degree of control or use, he will be able to claim payments on eligible land.

A farmer is operating within a standard farm tenancy lasting 12 months or longer.

In essence, the tenant's position is no different from the landowner farming in hand.

A landowner lets his grazing land for 10 months to a livestock farmer.

Depending on the rights and obligations of both parties, a claim could come from either the landowner or the livestock farmer.

The owner might support his claim on the basis that he had responsibility for looking after the quality of the land, fertilising and reseeding as required, and for maintaining key features such as hedges, gates and tracks. The grazier might support his claim on the basis that the agricultural activity was principally under his control.

Which party is eligible to claim payment depends on the contract between the landowner and the grazier, and how this is reflected in practice on the land. If the landowner wishes to retain control of the land for single payment purposes, this needs to be determined when the contract is written. If the contract requires the landowner to exercise certain activities, but in practice he does not do so and the grazier effectively takes over control, this could lead to a dispute about who in fact has the land at their disposal. This is why it is so important to clarify at the start who is responsible for what.

A short-term tenant or licensee wants to be the claimant.

The tenancy or licensing agreement should show that the short-term tenant or licensee has the land at his disposal for 10 months or more and even if he is

The 10-month rule

restricted on using the land for the entire period, he has the predominant use, control of use of the land and responsibility for cross compliance during the period.

A landowner wishes to claim payment while a third party is conducting agricultural activity on his land.

The landowner should make sure that he can clearly demonstrate that he has decision making control over the land. He may also wish to arrange that the third party has the land for less than 10 months.

Contract farming.

This would usually convey no rights to the land for the contractor. The contractor has access to the land to undertake his duties at the bidding of the farmer. The contractor simply acts as the agent of the farmer. In this case, the farmer/landowner is eligible to claim payment.

Share farming.

A landowner and a farmer agree to operate two separate businesses on one area of land, resulting in a single output of sales, which are split between them. Only one can claim the single payment, although they are free to divide this up in any way they wish after it has been claimed. The two parties will have to consider carefully how the businesses are defined and run so as to avoid inadvertently ruling both ineligible. As with all other contracts, professional advice is to be recommended.

A horticultural grower wishes to lease in land that still has some of the previous crop present.

As long as the new tenant took full and effective control of the land there would be nothing to prevent him allowing the previous tenant access to clear his crop. The same applies if, at the end of a tenancy, the existing tenant allows access (under conditions controlled by him) to the incoming tenant to commence his operation.

Calculating set-aside entitlements

The rules for calculating set-aside entitlements under the Single Payment Scheme are different from the rules for determining set-aside obligations that applied until 2004 under the Arable Area Payments Scheme (AAPS).

You can follow the instructions in this guide to work out how much land you may need to set aside under the Single Payment Scheme. The 2005 set-aside period will run from 15 January to 31 August 2005. You must make sure you have sufficient land in set-aside from 15 January onwards.

Who will be allocated set-aside entitlements?

A large proportion of farmers claiming money from the Single Payment Scheme will have to set land aside.

If you are one of these farmers, a number of the entitlements you receive will be designated as set-aside entitlements. You can only use these to claim payment on land that you manage as set-aside, and you must claim set-aside payments before any other payment.

Under the Single Payment Scheme, **some farmers will have to set land aside who have never done so before.** For example, livestock farmers with temporary grassland, or farmers growing sugar beet, potatoes, other field vegetables, arable fodder crops, and fruit other than top fruit.

You do not have to set land aside if:

- you farm entirely in the English moorland Severely Disadvantaged Area (SDA);
- your farm consists entirely of land ineligible for set-aside; or
- you qualify as a small producer.

Small producers are defined as farmers who have less than the following areas of land eligible for set-aside:

English non-SDA	19.48 ha
English non-moorland SDA	122.36 ha

There is no 'small producer' threshold for the English moorland SDA. Because there is a zero set-aside rate in the English moorland SDA, no farm or holding entirely in that area has to set aside any land.

If your farm or holding is situated in more than one of these areas, you must apply the small producer definition separately in each. For example, if you have 40 hectares of land eligible for set-aside in the English non-moorland SDA and 80 hectares of land eligible for set-aside in the English non-SDA, you will need to set aside an appropriate proportion of the 80 hectares. However, your 40 hectares in the English non-moorland SDA will be exempt from set-aside because you will count as a small producer in this area.

Calculating set-aside entitlements

Different rules about setting land aside apply if you are:

- an organic farmer – that is, managing your entire holding (not just part of it) in accordance with Regulation (EEC) 2092/91 and registered with a recognised organic inspection body; or
- using all your set-aside land to provide material for products not primarily intended for human or animal consumption, which are manufactured in the EU.

In these circumstances, you will be allocated set-aside entitlements, but you will not have to set land aside.

Calculating how much land to set aside

The calculation you need to do to establish the amount of land to set aside is different from the one that applied under AAPS until 2004.

Step one

Calculate the total area of 'arable land' that you wish to put into the Single Payment Scheme in 2005. In this context, arable land consists of all agricultural land on your holding with the exception of permanent pasture and permanent crops.

For the purpose of calculating your entitlements, 'permanent pasture' consists of land used to grow grasses or other herbaceous forage, whether naturally or through cultivation. The land must not have been included in the crop rotation of the holding for

five years or longer. If the land has been reseeded with grasses or other herbaceous forage during that five-year period, then it still counts as permanent pasture.

'Permanent crops' in this context are top fruit, nuts and grape vines.

All agricultural land, apart from permanent pasture or permanent crops, for which you plan to establish an entitlement under the Single Payment Scheme in 2005 should be included in your total area of arable land, whether or not you intend to use it for the production of crops or livestock.

Step two

Having identified your arable land in step one, you then need to identify whether any of that land was under permanent crops, forest or permanent pasture, or was used for non-agricultural purposes, on 15 May 2003. If it was, then this land is not eligible for set-aside.

Step three

Subtract the area of ineligible land (identified in step two) from your total area of arable land (identified in step one).

This will give you the total area of land eligible for set-aside entitlements. It will also help to identify the land that may be eligible to be set aside for the purpose of claiming those entitlements.

Where land is entered into the Environmentally Sensitive Areas or Countryside Stewardship Schemes,

Calculating set-aside entitlements

you should include it in the set-aside entitlement calculation if, as a result of the application of steps one and two, it is eligible land under step three.

Step four

Multiply the area of eligible land by the set-aside rate for the region in which the land is located.

The set-aside rates under the Single Payment Scheme are:

English non-SDA	8%
English non-moorland SDA	1.3%

This final calculation will give you an indication of the area of land which you should establish and manage from 15 January 2005 as set-aside and the number of set-aside entitlements you may be allocated.

If you have land eligible for set-aside in both the English non-moorland SDA and the English non-SDA, you will need to perform the calculation separately for each of these two regions and make sure that you have the correct amount of land set aside in each.

Different methods of calculating set-aside entitlements are being applied in Scotland, Wales and Northern Ireland. If your holding includes land in Scotland, Wales, or Northern Ireland as well as in England, you should contact the Defra Helpline on 0845 933 5577.

Example

A farmer has a 53 ha holding in the English non-SDA and he wants to establish his set-aside entitlement. The farm is made up of the following fields:

Field A **5 ha**

Permanent pasture

Field B **6 ha**

Available for arable use in 2005, but permanent pasture in 2003

Field C **30 ha**

Available for arable use in 2003 and 2005

Field D **1 ha**

Forestry

Field E **10 ha**

Used in 2003 and 2005 for arable production

Field F **1 ha**

Non-grazeable orchard

Calculating set-aside entitlements

Step one

The total area of arable land available in 2005 is 46 ha (Fields B + C + E).

Step two

There is 6 ha of land that is now available for arable use, but which was not available in 2003 (Field B). This land is ineligible for set-aside.

Step three

The area of land eligible for set-aside entitlement is 40 ha (Fields C + E).

Step four

This farm is in the English non-SDA, so the set-aside rate is 8% of the eligible land.

The number of set-aside entitlements which will be allocated to this farm is therefore 3.2 (0.08 x 40 ha).

Using set-aside entitlements

You must claim your set-aside entitlements before you can claim other entitlements allotted to you. Before you do this you must have set aside a hectare of land corresponding to the number of your set-aside entitlements. This obligation does not apply if you are an organic farmer as specified above.

The RPA will assume that you are setting-aside a number of hectares that are equivalent to the amount of your set-aside entitlements. If, as a result of an inspection or an administrative control, the RPA finds this is not the case, you will not be paid for that land and you may be subject to further penalties.

Only set-aside on land that comes within the definition of a hectare eligible for set-aside entitlement will normally count for the purposes of compliance with set-aside obligations. This land can be identified following steps one to three above. However, for the purposes of step one, the land will need to be 'arable land' throughout the set-aside period.

You must not use your set-aside entitlement on land that was not arable land in 2003.

As at present, there are certain circumstances in which land in agri-environment schemes that is not otherwise eligible may be counted as being set-aside for the purpose of complying with your set-aside obligation. For example, this could include arable land withdrawn from production under the Farm Woodland Premium Scheme or the Woodland Grant Scheme, provided that the application to enter the scheme in question was made on or after 28 June 1995. It may also include land covered by certain options under an Entry Level Stewardship agreement.

If land subject to an agri-environmental agreement is being counted as set-aside, you must make sure that you are able to fulfil all the conditions of both schemes. You should pay particular attention to the minimum width/area requirements for set-aside and ensure that your agri-environment scheme prescribes management that is compatible with set-aside rules.

The detailed conditions to be attached to the management options that will be offered under Environmental Stewardship

Calculating set-aside entitlements

have yet to be agreed. You should not assume that you will be able to count land managed under Environmental Stewardship as set-aside.

For further information on these exemptions, please contact the Defra Helpline on 0845 933 5577.

The EU regulations describe some circumstances in which land currently ineligible for set-aside entitlement can become eligible, with offsetting reductions in currently eligible areas. We will explain this in detailed guidance on set-aside to be issued in the autumn.

Managing set-aside land

In general, the management arrangements for whole-field and part-field set-aside will be similar to those applied up to 2004 under AAPS. Full management rules for set-aside land will be sent to you in the autumn.

You may continue to set land aside in strips of between six and ten metres wide, providing that this land is eligible for set-aside and that it is adjacent to hedges, woods, watercourses or Sites of Special Scientific Interest. These strips will have to be managed in accordance with the usual set-aside management rules.

From 1 January 2006, management rules for these strips will be stricter than for other set-aside land. In particular, you will have to establish the green cover by sowing rather than by natural regeneration if there is insufficient green cover.

Non-food crops

As at present under AAPS, you will be able to grow certain non-food crops on set-aside land. Full scheme rules in this area will be available in the autumn. These rules will be similar to the ones that currently apply.

Meeting cross compliance standards and requirements

To qualify for your subsidy from the Single Payment Scheme, you will have to meet cross compliance standards and requirements.

Cross compliance standards and requirements are a set of rules that you must meet to provide minimum levels of environmental and public health, animal and plant health, and animal welfare.

There are two types of cross compliance:

- There are standards to help keep land in **Good Agricultural and Environmental Condition**.
- **Statutory Management Requirements** are provisions resulting from Articles of existing EU Directives and Regulations.

Often, these do not ask more than existing legislation or 'common sense' farming practice. Most farmers will meet many of these standards and requirements already, so cross compliance measures should not necessarily place a new burden on you.

Some, but not all, of the standards or requirements come into force at the beginning of 2005. For some of the requirements that describe a new obligation, for example the rule that you must keep a two-metre buffer zone around hedges and watercourses, extra time has been allowed for implementation. **You will not have to implement this buffer zone until the beginning of the next planting season in July 2005. Further details on this will follow.**

This document gives an overview of all the cross compliance standards and requirements. We will send you full scheme rules on meeting cross compliance in the autumn.

Good Agricultural and Environmental Condition

You must meet the following cross compliance standards and requirements to maintain land in good agricultural and environmental condition:

Protection of hedges and watercourses

You must establish a protective buffer zone alongside hedges and seasonably wet watercourses, if such a zone does not already exist. This needs to measure two metres from the centre of the hedge or ditch and extend at least one metre from the top of a bank into the field.

You must not cultivate or use fertilisers, herbicides or pesticides on the buffer zone.

You do not have to create buffer zones until July 2005. Rules for small fields under two hectares and for farmers planting new hedges will be discussed with the industry.

Hedgerows

You must not trim hedgerows between 1 March and 31 July – the main breeding season for birds. Where health and safety is an overriding consideration, for example at a roadside or on a driveway, trimming may be permitted. Further details will be included in the scheme rules to be published in the autumn.

Meeting cross compliance standards and requirements

Stone walls

You must not remove or damage stone walls without consent.

Rights of way

You must not obstruct or disturb the surface of a public right of way that crosses your land. However, you can plough the path of a public right of way, as long as you recreate the path within any prescribed time limit. You also have to look after any stiles or gates on a public right of way on your land that are your responsibility. These are all existing requirements.

Set-aside

You can put set-aside land into six to ten-metre strips along field margins next to sensitive 'living' habitats in order to buffer the following features:

- watercourses, ponds and lakes;
- hedges;
- wet ditches;
- Sites of Special Scientific Interest (SSSIs); and
- woodland.

Green cover must be established by 15 January of any year through sowing.

The rules for managing set-aside land will remain largely unchanged. However, rules on seed mix for sowing green cover will be relaxed to allow a small percentage of clover and other legumes to be included. We will send you full scheme rules in the autumn.

Protection and maintenance of soil

You must retain and take account of the new guidance being published in the autumn and minimise the erosion risk to land following the harvesting of combinable crops and over the winter period. Land must either be under a crop, green cover or stubble, or be left after primary cultivation (plough, disc or tine) until planting of the next crop requires a seed bed to be produced. More information about differences in these rules due to agronomic and climatic variability will be included in the full scheme rules to be sent out later.

You also need to meet the stubble burning rules in the Crop Residues (Burning) Regulations 1993 and you must not carry out any cultivation if water is standing on the surface or if soil is saturated.

In 2006, you will have to draw up a simple, risk-based soil management plan, which you will have to carry out from 2007. This will not be as demanding as the requirements of the Entry Level Stewardship Scheme.

Heather and grass burning

You must meet the Heather and Grass (Burning) Regulations 1986 as amended in 1987.

In autumn 2004, Defra will begin a review of the regulations and the burning Code of Practice.

Overgrazing

You must continue to meet existing controls on overgrazing on semi-natural

Meeting cross compliance standards and requirements

vegetation, based on the assessment of the current condition of the vegetation.

Where there is evidence of overgrazing, limits on stocking rates may be advised and, if necessary, imposed to prevent further damage.

The existing supplementary feeding rules will continue to apply and you will need to assess the risk of damage to soils from current practices as part of developing your simple Soil Management Plan in 2006.

Permanent pasture

You are allowed to plough up permanent pasture, as long as, at a national level, the area of permanent pasture as a proportion of agricultural land does not fall below 95% of 2003 levels.

Consequently, if the national area of permanent pasture falls too close to this level, Defra may have to implement controls on the ploughing up of permanent pasture.

If the area of permanent pasture falls below 90% of national 2003 levels, we may require farmers to reconvert land they converted **from** permanent pasture in the previous year.

Afforestation of permanent pasture that is compatible with the environment is exempt from this requirement as long as it is acceptable when assessed under the existing Forestry Environmental Impact Assessment (EIA) Regulations. You can get more information on forestry EIA procedures from the Forestry Commission.

You will need to check whether an assessment under EIA Regulations is required before ploughing permanent pasture.

Land not wholly in agricultural production

You must ensure that land no longer in agricultural production remains classed as agricultural land. You must be able to remove scrub invasion easily and control notifiable weeds (as identified under the Weeds Act 1959) and certain invasive species so that you could return the land to agricultural production by the next growing season at the latest.

You also have to maintain the land in a condition that allows an inspector to easily identify eligible land and carry out normal control activity.

As a minimum, you will need to cut or graze the vegetation once every five years. Further details will be published in the autumn, but where vegetation on land has not been cut or grazed for three years, no more than 50% of the vegetation on this land should be cut in any subsequent single year. Cutting must not take place between 1 March and 31 July.

Protection of landscape features

You need to comply with existing legislation that protects different habitats and landscape features, including:

- Tree Preservation Orders (Town and Country Planning Act 1990) to protect designated important trees and groups of trees;

Meeting cross compliance standards and requirements

- Hedgerows Regulations 1997;
- Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) Regulations 2001 (SI 2001/3966) to protect the environmental interest of habitats such as semi-natural grassland;
- SSSI legislation under Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000, to protect SSSIs;
- Scheduled Monuments Legislation 1979 and 1994 to protect registered archaeological monuments and sites on agricultural land;
- Forestry Act 1967 (may require Felling Licences); and
- Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999 (SI 1999/2228) to protect sensitive woodland and wood pasture habitats.

If you are unsure about how you are affected by any of these rules, the Defra Helpline (0845 933 5577) or RPA Customer Service Centre (0845 601 8045) can provide details of the relevant authority.

Statutory Management Requirements

You will have to meet the Statutory Management Requirements, which consist of requirements resulting from specific articles of 19 EU Directives and Regulations, all but one of which, relating to ovine and caprine identification, are already in existence. The requirements

will apply as they have been implemented in England.

We will send you full details of these requirements in the autumn.

Enforcement

The RPA will be responsible for ensuring inspections are carried out in accordance with EU Regulations to make sure you meet the cross compliance standards and requirements. Many cross compliance requirements are based on existing legislation and practices for which inspection arrangements are already in place. Indeed, we anticipate CAP reform as a whole will reduce the number of farm inspections.

Where practicable, the RPA will co-ordinate inspections with existing farm visits. Defra is also working to make sure that the inspection process fits in with the Whole Farm Approach, the Modernising Rural Delivery programme and other government and private sector initiatives.

The RPA will carry out inspections in partnership with specialist enforcement bodies such as the Environment Agency and English Nature. The RPA will also provide a single point of contact for all cross compliance-related enquiries.

Non-compliance

Where the Statutory Management Requirements or Good Agricultural and Environmental Conditions are not complied with, payments made to the farmer can be reduced.

In some circumstances, farmers may not be penalised for very minor or

technical infringements of the rules of cross compliance.

Any reduction will be applied to the overall amount of direct payments that has been or will be granted to the farmer following an aid application submitted in the course of the calendar year of the finding of non-compliance.

As a general rule, payments will be reduced by 3% for any non-compliance as a result of negligence of the farmer.

Where more than one case is identified of various non-compliances as a result of negligence, payment reductions will accumulate up to a maximum of 5%.

Where an inspector finds repeated non-compliance with the same standard or requirement, the reduction will be multiplied by three, up to a maximum of 15%.

A farmer who intentionally fails to comply with these standards or requirements can expect to receive a reduction of at least 20% of their subsidy payment and may even be excluded from the Single Payment Scheme in the following calendar year.

You may appeal against any decision to apply a reduction or exclusion. Guidance on the appeals process will be issued in due course.

Modulation to help fund Environmental Stewardship

Modulation redistributes money from direct support schemes to national agri-environment funds available to farmers.

Modulation rate

The modulation rate is the percentage of subsidy payments which is used to fund agri-environment schemes.

Part of the modulation rate is fixed by the EU and is the same across Europe. In England, we will also be levying an additional rate of modulation.

Money raised through modulation will be directed towards agri-environment schemes, including Environmental Stewardship, which is being launched in 2005.

The following overall modulation rates will apply in England in 2005 and 2006 (see table below).

The EU rate of modulation for 2007 and beyond has been set at 5%; the overall modulation rates for England have not yet been decided.

Matching funds

The Exchequer will make available the same amount of funding as is raised through modulation for agri-environment schemes. As a result, double the amount

of money will return to the rural economy through these schemes and rural development measures.

Match-funding will continue in this way until the end of 2006 at least.

Environmental Stewardship

Environmental Stewardship, including Entry Level Stewardship, provides farmers with funding in return for a commitment to address a range of environmental issues, including:

- tackling declines in dispersed wildlife species;
- safeguarding historic features, such as archaeological sites and ridge and furrow grassland which is at risk from plough damage;
- maintaining the character of the landscape; and
- conserving soil and tackling diffuse pollution.

Entry Level Stewardship is a straightforward but important advance on the requirements of cross compliance which will help achieve sustainable management of the countryside as a whole. It will be open to applications from all farmers. Further details will be supplied in due course.

Year	Compulsory EU modulation rate	Additional national modulation rate	Overall modulation rate
2005	3%	2%	5%
2006	4%	6%	10%

Accuracy of the Moorland Line

Because of potential minor inaccuracies in the location of the Moorland Line on individual holdings, practical arrangements have been made to allow farmers to make representations to the RPA for consideration.

From 12 August 2004 until 24 September 2004, farmers have an opportunity to make such representations. You should give careful consideration to the position of the Moorland Line on your holding before making a representation.

What is the Moorland Line?

Land within the Moorland Line contains predominantly semi-natural vegetation, used primarily for rough grazing. The Moorland Line has been drawn to coincide with Ordnance Survey mapped features such as tracks, watercourses, walls, hedges or fences. It need not form a stock-proof boundary, but it should be clearly visible on the ground.

How is moorland, within the Moorland Line, defined?

The Moorland Line was drawn in 1992 using the following definition of moorland:

‘Land with predominantly semi-natural upland vegetation, or comprised predominantly of rock outcrops and semi-natural upland vegetation, used primarily for rough grazing; including enclosed land such as allotments, fridd or reverted in-bye.’

Any visible, but not necessarily stock-proof, enclosures inside the Moorland

Line will also have more than a 50% cover of semi-natural vegetation – or semi-natural upland vegetation with rock.

The Moorland Line excludes areas of ‘closed canopy’ woodland over five hectares, even if they are not separately enclosed.

The minimum-sized area that can be defined as moorland – or alternatively excluded from surrounding moorland – is five hectares.

The basis of the representation will be that the land in question was properly classified as moorland, using the above definition, on 22 April 2004.

What is semi-natural vegetation?

Semi-natural upland vegetation consists mainly of species that are characteristic of grassy and shrubby upland heaths and moors, and enclosed lands that have had little or no agricultural inputs or cultivations in recent times. Agriculturally improved or semi-improved grasslands are not included as moorland.

Semi-natural upland vegetation mainly consists of species such as:

- **Grasses** – Bent, Fescue, Wavy hair grass, Blue moor-grass, Purple moor-grass (*Molinia*), Mat grass (*Nardus*)
- **Ferns** – Bracken
- **Shrubs or Heath** – Heather, Bilberry, Crowberry, Gorse, other associated scrub

Accuracy of the Moorland Line

- **Rushes and Sedges or Bog Mosses** – Cotton grass, Deer-grass, Heath rush, Bog mosses (*Sphagnum*)

What you should do to make a representation

Contact the RPA on the Moorland Line Representations Helpline. This will be open from 08:30 to 17:00 Monday to Friday from 12 August 2004 until the representation period ends on 24 September 2004. You will be able to get information from the Helpline about the location of offices in your region where you can view the Moorland Map to check any particular parcel of your land.

After registering your call, the RPA will send you an information pack containing all the information you need to take matters further, including full guidance on the procedure you must follow. If you decide to make a representation, it must be delivered to the RPA at the address contained within the pack to arrive no later than **24 September 2004**.

The Moorland Line Representations Helpline number is 0845 605 6516

You can view the Moorland Map by clicking on www.rpa.gov.uk

RPA administration of the Single Payment Scheme

To claim payment under the new Single Payment Scheme, you need to tell us how much you were paid between 2000 and 2002 and your land needs to be registered on the RPA's Rural Land Register.

Information Statement

By now, most of you will have received your Information Statement from the RPA showing the number of animals or hectares that you received payment for during the reference period of 2000, 2001 and 2002. The outstanding Information Statements are currently being validated and will be sent out between now and the end of September.

You do not have to contact the RPA if the information statement is correct.

If you think there are any errors or omissions on your Information Statement, correct it following the guidance notes and return it to the RPA. You must return the corrected Information Statement within 28 days of receiving it.

New rules about amending your reference period

New rules about amending your reference period supersede the rules described in the Single Payment Scheme Information Statement: Explanatory guide for England.

The deadline for submitting applications to ask for an amended reference period has now been set at 1 December 2004.

If your payments during 2000, 2001 or 2002 were not typical, you can ask for them to be excluded from the reference amount. For example, if you were affected by force majeure or exceptional circumstances, or were a member of a qualifying EU agri-environment scheme.

You can now also ask for the payments from one scheme to be excluded, rather than excluding an entire year's worth of payments. For example, a farmer with cereals and beef, whose beef business was affected by exceptional circumstances in 2002, could have a reference amount based on beef payments in 2000 and 2001, and cereals payments in 2000, 2001 and 2002.

If none of the years in the reference period were typical, you can use the years 1997, 1998 and 1999 as your reference period.

To change your reference period, you must apply to the RPA using form SP2, available from the RPA. The RPA will then send you a form to clarify which payments should be excluded for which years.

The new rules do not affect the standard of evidence you must provide to support claims of force majeure or exceptional circumstances.

Registering on the Rural Land Register

You need to register your land on the RPA's Rural Land Register to claim payment through the Single Payment Scheme.

If your land was registered for IACS in 2003 or earlier, you do not have to do anything – the RPA has already registered you. Please return your maps to the RPA if you have not done so already.

If you registered on IACS for the first time on 17 May 2004, the RPA is currently registering your land. The RPA will send you maps of your land for checking for accuracy from the end of September onwards.

If you are a small livestock producer (i.e. you have previously claimed for less than 15 livestock units), the RPA will write to you by the end of September to explain how to register your land.

If you are a sheep producer in a lowland area and you have not previously submitted an IACS area aid application, the RPA will write to you by the end of September to explain how to register your land.

If you have any other land not registered on IACS that you plan to include in your Single Payment Scheme application next year, you should register it now with the RPA.

If you have any land that you plan to enter into Environmental Stewardship schemes next year, you need to register it on the Rural Land Register. However, if

you have entered the land into any of the following schemes, it will already have been registered and you do not have to do anything:

- Countryside Stewardship Scheme
- Environmentally Sensitive Areas
- Organic Farming Scheme
- Energy Crops Scheme
- Farm Woodland Scheme
- Farm Woodland Premium Scheme
- Habitat Scheme
- Arable Stewardship Scheme.

If you do not fall into one of the categories above that are being contacted automatically, to register your land on the Rural Land Register please contact the RPA Customer Service Centre on 0845 601 8045, or email Customer.Service.Centre@rpa.gsi.gov.uk

Adjusted Extensification Payments

The Extensification Payments you received during the reference period (2000, 2001 and 2002) may have been adjusted to compensate for movement restrictions on your livestock caused by an outbreak of an epizootic disease, for example Foot and Mouth. As a result, you may have received payment when your stocking rate was too high to qualify you under normal conditions, or you may have received a higher rate of payment.

The regulations of the Single Payment Scheme require an adjustment to be made to your reference amount if you

RPA administration of the Single Payment Scheme

benefited from this. For any affected years, we will limit the number of animals your reference amount is based on to the average number of animals you were paid for in the unaffected years.

The Extensification Payments received by all farmers in 2001 were adjusted in this way. In 2000 and 2002, farmers had to request individually to have payments adjusted.

If you were affected by this adjustment, you do not have to take any action – we will recalculate your reference amount automatically.

Other related CAP reform issues

The introduction of the Single Payment Scheme means changes to a number of other aspects of the subsidy arrangements.

Cross-border farms

If you have a farm that lies across a border between England and Scotland or Wales or have discrete parcels of land in Scotland and/or Wales as well as in England, you will not yet know how your reference amount is to be divided between the countries. (This will also apply across the three regions in England.) Defra is currently working with the Devolved Administrations to find the simplest solution that will find support from stakeholders. We plan to announce how this reference amount will be calculated as soon as possible.

Commons

Defra is currently working out how to apply the Single Payment Scheme to common land. We are discussing proposals with stakeholders during August 2004 and hope to make an announcement in September.

Land eligibility rules

Many questions remain about land eligibility rules, in particular whether you can claim payment for land that supports horses. We are currently considering these issues with the Devolved Administrations and we will publish UK-wide guidance as soon as possible.

National Reserve

Most decisions about the National Reserve concern the whole of the UK, not only England. Because the consultation process about how it will operate has only just been completed in Northern Ireland, no announcements about the National Reserve will be made before September.

The National Reserve is a fund of money to provide certain farmers with entitlements to the Single Payment Scheme. The special situations that automatically qualify you for payments from the National Reserve are defined in Commission Regulation 795/04, details of which are available on the Defra website.

The possibility also exists of including some discretionary categories on a national basis under which farmers would qualify for payment from the National Reserve. A range of possibilities came forward during the consultation exercise and we are currently considering them.

Single Payment Scheme timeline

2004		Action by farmer	Action by Defra/RPA
22 July	Single Payment Scheme policy details announced by Margaret Beckett, Secretary of State for the Environment, Food and Rural Affairs.		X
July/ end August	Information Statements sent to farmers. (A small number will be sent in September.)		X
	Single Payment Scheme July Information Update sent to all farmers and growers.		X
12 August – 24 September	Period for representations about the accuracy of the Moorland Line.	X	
By end September	RPA writing to small livestock producers and lowland sheep producers who have not previously submitted an IACS area aid application to explain how to register their land.		X
1 October	First date for the start of the 10-month period to have land at your disposal for the 2005 scheme year.	X	
Autumn	Cross compliance and set-aside scheme rules sent to farmers.		X
	Farmers with any land not currently registered on IACS who wish to claim Single Payment or wish to enter Environmental Stewardship in 2005 are encouraged to register with RPA.	X	
1 December	Deadline for submitting applications seeking an amended reference period.	X	

Single Payment Scheme timeline

2005		Action by farmer	Action by Defra/RPA
1 January	Scheme year starts, cross compliance begins.	X	X
15 January	Set-aside period begins.	X	X
March	Single Payment Scheme application form and rules sent to all farmers registered on the Rural Land Register.		X
30 April	Last date for the start of the 10-month period to have land at your disposal for the 2005 scheme year.	X	
16 May	Deadline for return of Single Payment Scheme application forms.	X	
August	Information about entitlements sent out.		X
31 August	Set-aside period closes.	X	X
December	2005 payment window opens.		X

Who to contact to find out more

To find out more about **CAP reform**, the **Whole Farm Approach** or the **Rural Strategy**, please call the Defra Helpline on **0845 933 5577**, or email **helpline@defra.gsi.gov.uk**

You can also find out more about these issues on the Defra website:

- Lord Whitty's letter of 14 May 2004:
www.defra.gov.uk/farm/capreform/implementation/docs/farmletter.pdf
- CAP reform:
www.defra.gov.uk/farm/capreform/index.htm
- Strategy for Sustainable Farming and Food:
www.defra.gov.uk/farm/sustain/default.htm
- Rural Strategy:
www.defra.gov.uk/rural/default.htm
- Whole Farm Approach:
www.defra.gov.uk/farm/sustain/wfa/default.htm

To find out more about the **administration of the Single Payment Scheme**, please call the RPA Customer Service Centre on **0845 601 8045**, or email **Customer.Service.Centre@rpa.gsi.gov.uk** You can also visit the RPA website at **www.rpa.gov.uk**

To get an information pack to help you make a representation about the position of the **Moorland Line**, please call the Moorland Line Representations Helpline on **0845 605 6516**. You can find more information, as well as a map of the Moorland Line, at **www.rpa.gov.uk**

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