



Rural Payments  
Agency



# Basic Payment Scheme 2016

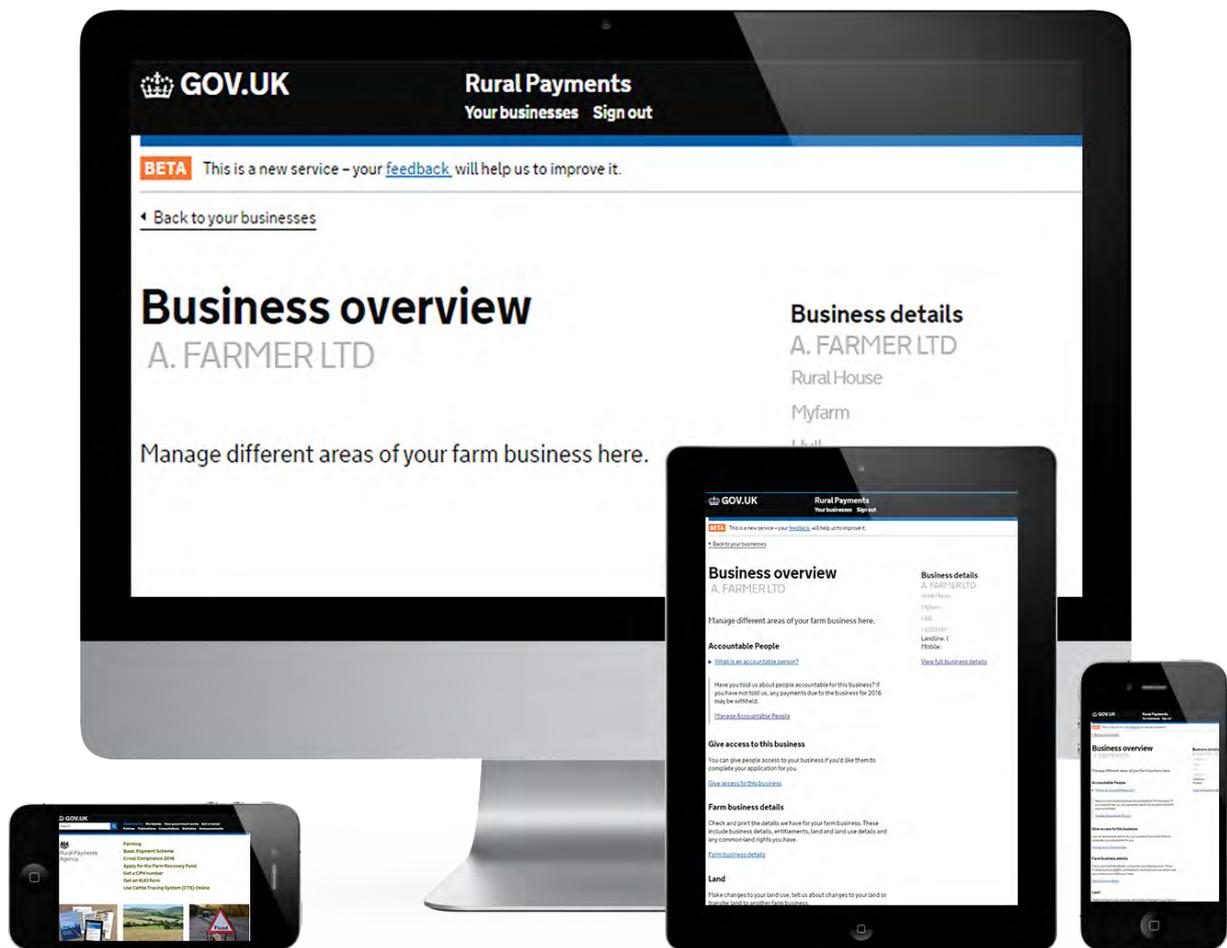


## Common land and shared grazing

Also read 'Scheme rules' and  
'Land in more than one part of the UK  
(cross border)'

Get everything you need to know about the Basic Payment Scheme 2016:  
[www.gov.uk/rpa/bps2016](http://www.gov.uk/rpa/bps2016)

# Claim BPS online



Find out more at:  
[www.gov.uk/rpa/bps2016](http://www.gov.uk/rpa/bps2016)



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# Common land and shared grazing

Farmers can claim BPS for their use of a common or area of shared grazing, based on the rights that they hold.

## What farmers need to be able to claim

To claim BPS for their grazing rights on a common or area of shared grazing, farmers must:

- have the correct rights
- be using the common

The common or area of shared grazing used to support their claim must be:

- eligible land
- at their disposal on 16 May 2016 - they must be able to exercise their rights by turning out animals on the common on this date

Farmers must also meet the cross compliance rules. If a cross compliance rule is broken on the common, the farmer may have their payments reduced for their whole holding if they are even partly responsible for the breach.

## What 'using' a common or area of shared grazing means

A farmer is 'using' a common if they:

- exercise their grazing rights by turning out stock on it, including grazing for conservation purposes
- participate in a relevant Environmental Stewardship or Countryside Stewardship agreement on it
- contribute to managing the common

'Contributing to managing the common', with appropriate consents and rights, includes:

- keeping some of it in a state suitable for grazing or cultivation by:
  - clearing scrub that can't be grazed

- some other beneficial activity, for example treating bracken, maintaining internal walls, hedges or fences, or managed swaling (burning)

## **How the eligible area of a common or area of shared grazing is allocated**

RPA will allocate the entire eligible area of the common amongst those farmers who have declared their rights on it.

RPA can only calculate this after all BPS applications have been submitted, because they need to know:

- the total number of rights of common declared by all farmers that year
- how many rights each individual farmer declares (as a percentage of that total)

RPA uses that percentage to calculate each farmer's 'notional area' – the amount of eligible land in hectares that the farmer can claim for this common.

The notional area will be considered as part of the eligible area of the holding, including for the greening calculations. In most cases, common land will be regarded as permanent grassland.

## **What rights farmers must declare**

If farmers are using a common for grazing, they must declare all of their rights in their application, even if they choose not to claim payment for them.

If a farmer is using a common by participating in a relevant Environmental Stewardship or Countryside Stewardship agreement on it, or otherwise contributing to its appropriate management, they can choose whether to declare their rights on the common. If they do so, they must declare all their rights.

## **What rights to claim on**

Farmers may have a right to graze land in common with other farmers. This land may be registered as common land, or it may be other shared grazing, such as stinted or regulated pastures.

'Shared grazing' does not mean land owned or occupied by 2 or more farmers as 'tenants in common'.

Farmers can claim BPS if their right is:

- a right to graze which is registered under the Commons Registration Act 1965 or Part 1 of the Commons Act 2006 (ask the relevant local authority to see the registers)

- a right to graze shared grazing (these rights are often set out in an ‘inclosure award’)
- a right to any surplus grazing on common land because they are the owner of the common, or the owner has granted that right to them
- a long-standing tenant’s right to graze common land (sometimes known as a ‘quasi right’), where there is no notional surplus, but the commoners’ association and owner for that common land has previously recognised the existence of their right

Farmers can’t claim against a right of common which is not a right to graze animals (for example, a right to collect firewood or dig for peat).

## **Evidence applicants must keep for common land**

Applicants must have evidence of their right of grazing on common land or shared grazing, and of their use of it. RPA may ask to see this evidence.

When claiming against a right of common, applicants may need to identify the right in the register of common land held by the local authority.

Most rights of common are registered as being attached to land. If the applicant isn’t the owner or occupier of that land, they may have to prove that they’re entitled to the right (for example, because they are lessees of a right).

RPA can’t recognise a lease of a right of common attached to land where for the duration of the lease the right is held by one person, but the land is held by someone else, unless:

- the lease lasts for 2 years or less, or
- the lease was made before 28 June 2005

## **The rules on claiming surplus grazing**

Owners of common land or shared grazing can claim ‘owner’s surplus’ on some commons if:

- RPA calculates that there is a surplus
- the owner is a ‘farmer’ and an ‘active farmer’ for BPS
- the owner is using the common

Farmers can claim an owner’s surplus if the owner has granted that right to them. They can’t claim an owner’s surplus on any common land or shared grazing if the owner has no

right to graze the land (for example, if the owner has granted away all the grazing rights, or if an inclosure award made no provision for grazing by the owner).

### **How RPA calculates if there is a surplus on a common**

RPA use the following figures to work out the number of grazing animals that a common or area of shared grazing can accommodate to decide whether there is a surplus:

- 0.25 livestock units per hectare (LU/ha) for Severely Disadvantaged Area (SDA) moorland
- 0.75 LU/ha for SDA non-moorland and non-SDA grassland

If the total number of LU/ha exercisable over the common or shared grazing is lower than the number of grazing animals that the common or shared grazing can accommodate, the owner can claim a surplus.

Some common land has registered rights for so many animals that RPA will calculate that there is no surplus grazing available to the owner. If there is a surplus, RPA will convert it into a 'notional' land area for the owner to claim BPS.

### **How to describe rights**

Farmers who have a right of grazing for more than one type of animal on a common or shared grazing, for example for 10 cattle and 30 ponies, should claim for each type of animal separately.

If they have a right of grazing for alternative types of animal, for example for 10 cattle or 30 ponies, they should convert the rights into livestock units (read the conversion table below) and claim for the animals that give them the higher or highest value for livestock units.

If their rights are in the form of gates, gaits or stints, they must explain their equivalent value for numbers of animals as defined in the common land register or other binding document (such as the inclosure award).

For example, where one stint equals the right to graze 1 cow or 5 sheep, they would enter one cow, as that would give the higher LU value.

<b>Livestock type</b>	<b>LU</b>	<b>Livestock type</b>	<b>LU</b>
Cattle	1.00	Horse	1.00
Donkeys	0.60	Heifers/Stirks	0.60
Ponies	0.60	Pigs	0.30
Goats	0.15	Sheep	0.15
Geese	0.04	Poultry (over 6 months)	0.02

## **How to claim commons in the New Forest**

Farmers should use their application to declare the common rights they have in the New Forest and under the 'Number of rights of this type', record how many marking fees they paid on the New Forest in 2015. To do this, they should convert the marking fees they paid in 2015 to standard livestock units using the table shown above.

Farmers claiming BPS in 2016 for the New Forest must declare their rights of common if they paid marking fees in 2015. If they don't want to claim on those rights, they should tell RPA in their application.

### **Evidence needed**

To show RPA the marking fees they paid in 2015, farmers need to send copies of the marking fee receipts, together with their application form, to RPA. RPA must receive these by midnight on 16 May 2016 (the BPS application deadline).

The receipts need to show that the marking fees were paid for animals grazed in the New Forest in 2015 and be signed by an agister on behalf of the Verderers. Farmers may have paid some fees in 2015 in advance for animals to be turned out in 2016. RPA can't accept these – farmers can only use receipts from 2015 for grazing in 2015.

Each marking fee receipt can be used to support only one application. The receipts may be checked against records held by the Verderers.

# More information

## Contact RPA

All written queries, or evidence to support BPS applications, should be sent to:

Rural Payments  
PO Box 352  
Worksop  
S80 9FG

Email: [ruralpayments@defra.gsi.gov.uk](mailto:ruralpayments@defra.gsi.gov.uk)

Call: 03000 200 301 open 8.30am to 5pm Monday to Friday (except Bank Holidays).

Website: [www.gov.uk/rpa](http://www.gov.uk/rpa)

Twitter: @Ruralpay

When you contact RPA please give your Single Business Identifier (SBI) and your business name.

If you're deaf, deaf blind, deafened, hard of hearing or speech impaired and have a text phone, you can use Text Relay (previously known as Type Talk). This is a telephone relay service that means you can communicate with hearing people by telephone. To contact RPA using Text Relay, dial 18001 03000 200 301 from your text phone.

To use text relay on a device such as a smartphone or computer you also need to download the free Next Generation Text app from [www.ngts.org.uk](http://www.ngts.org.uk) or from a marketplace such as Google Play or the App Store.

You can make a text relay call in a number of different ways and using a number of different devices.

For more information go to [www.ngts.org.uk](http://www.ngts.org.uk).

**To receive this guidance in large print, or another alternative format, contact the RPA.**

## How to complain

Farmers or agents who are unhappy with a decision or service they've had from RPA, can call, email or write to RPA.

For contact details and more information about how to complain or appeal go to [www.gov.uk/rpa](http://www.gov.uk/rpa) and click on 'Complaints procedure' in the 'Corporate Information' section.

## **BPS regulations**

This guidance is not the law. It's designed to help farmers follow the Basic Payment Scheme rules. For legal advice, contact a legal professional.

The main European regulations are:

- Direct Payments Regulation (EU) No 1307/2013
- Financing, Management & Monitoring (IACS) Regulation (EU) No 1306/2013

The European Commission delegated and implementing regulations are:

- Direct payments Delegated Regulation Regulation (EU) No 639/2014
- Direct payments Implementing Regulation Regulation (EU) No 641/2014
- IACS Delegated Regulation Regulation (EU) No 640/2014
- IACS Implementing Regulation Regulation (EU) No 809/2014

Domestic regulations:

- The Common Agricultural Policy Basic Payment and Support Schemes (England) Regulations 2014 SI No 3259 (as amended)
- The Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014 SI No 3263

For more information, go to [www.legislation.gov.uk](http://www.legislation.gov.uk).

If the regulations change or the interpretation of them changes, RPA will publish more information.

## **Data Protection**

Defra is the data controller for personal data you give to us or we hold about you. We use it in line with the Data Protection Act.

For more information, go to [www.gov.uk/rpa](http://www.gov.uk/rpa), choose 'Contact RPA' and click on 'Personal information charter'.

## **The Farming Community Network**

Farmers who need any help or support can call The Farming Community Network (FCN).

FCN provides free and confidential pastoral and practical support to farming families during times of stress and anxiety caused by problems related to the farming business or the farm household.

They run a helpline from 7am to 11pm every day of the year and are staffed by a team of volunteers who understand farming issues.

Call 03000 111 999 or email: [chris@fcn.org.uk](mailto:chris@fcn.org.uk). Website: [www.fcn.org.uk](http://www.fcn.org.uk).

## **Legal notice**

This guidance is our interpretation of the current regulations for the Common Agricultural Policy schemes from 2016. Only the courts can give a definitive interpretation of the law.

Applicants may want to get independent professional or legal advice before they change anything about their business. We cannot advise applicants or their legal representatives on business structure.



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Any enquiries regarding this document should be sent to us at:

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