



Rural Payments
Agency



Basic Payment Scheme 2016

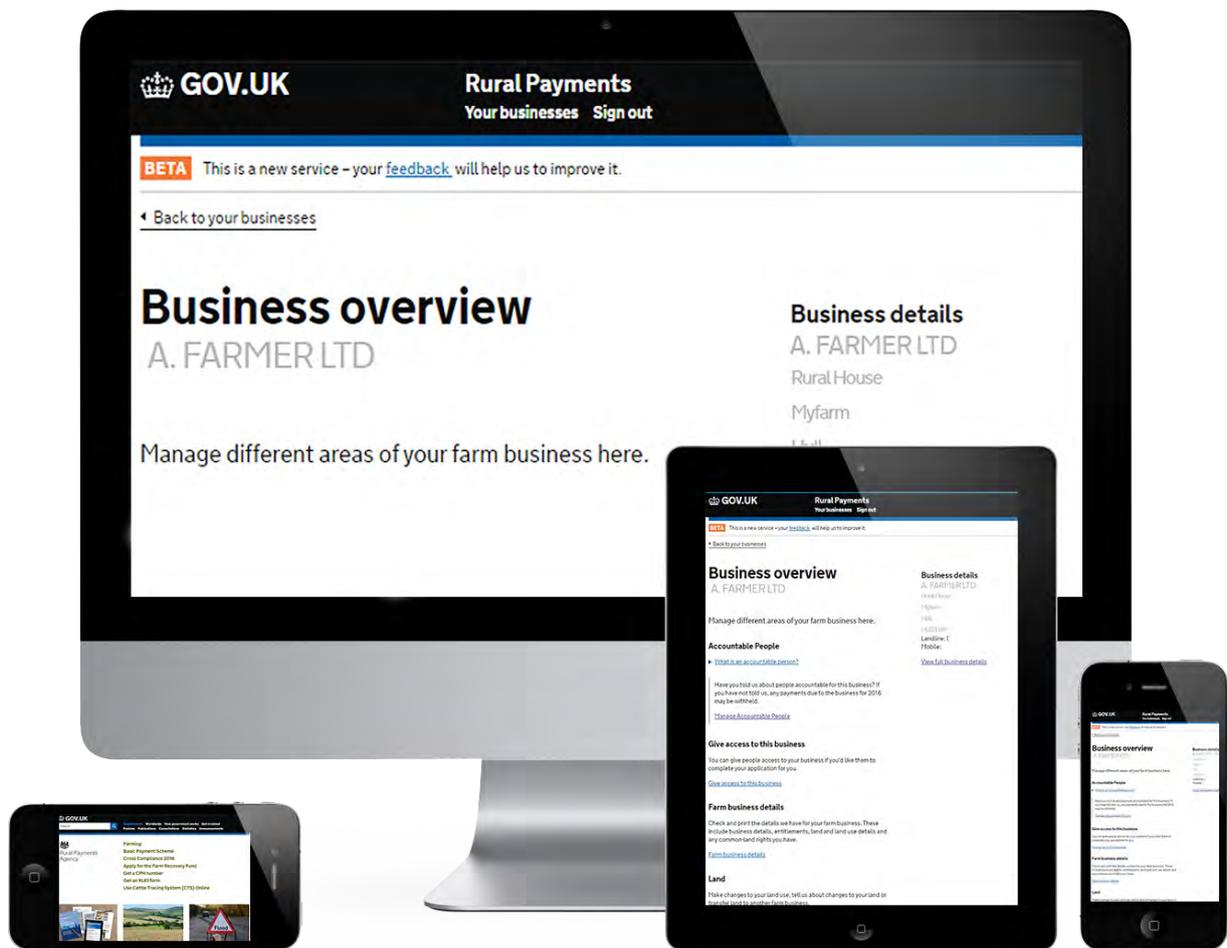


Land in more than
one part of the UK
(‘cross border’)

Also read ‘Scheme rules’ and ‘Common land and shared grazing’

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

Claim BPS online



Find out more at:
www.gov.uk/rpa/bps2016



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Introduction

There are different rules for BPS in England, Northern Ireland, Scotland and Wales.

Some farmers have a 'cross border' holding which means they have land in more than one part of the UK (England, Northern Ireland, Scotland and Wales).

The rules for BPS can be different in the different parts of the UK. This guidance gives more information about how rules apply to cross border holdings.

Farmers should read this guidance carefully - in addition to the main scheme rules for each part of the UK in which they have land.

Applying for BPS

To apply for BPS, these farmers need to submit an application to each part of the UK where they:

- have agricultural land
- have non-agricultural land which they claim rural payments on (like Rural Development payments)

They need to declare on their application whether they have land in more than one part of the UK. They need to do this for each application they submit (one to each paying agency where they have land).

These 'paying agencies' manage the schemes and make payments in the different parts of the UK:

- England – Rural Payments Agency (RPA) – www.gov.uk/rpa
- Northern Ireland – Department of Agriculture and Rural Development (DARD) – www.dardni.gov.uk
- Scotland – Rural Payments and Inspections Division (RPID) – www.ruralpayments.org/publicsite/futures
- Wales – Rural Payments Wales (RPW) - www.gov.wales/agrischemes

Applying online

In England, farmers can apply for BPS online (using the Rural Payments service) or using a BP5 form. In Northern Ireland and Scotland, they can make a BPS application online or using the single application form. In Wales, farmers can only apply online.

Farmers will be paid by the paying agency in the part of the UK where most of the land on their holding is located. However, if a farmer's most recent payment (for either the old Single Payment Scheme or BPS 2015) was made by a different paying agency, they can choose for their BPS 2016 payment to be made by that paying agency, even though most of their land is not in that part of the UK.

Example

A farmer with agricultural land in England and Wales should submit an application to both:

- the Rural Payments Agency (RPA) for the land in England, and
- Rural Payments Wales (RPW) for the land in Wales

They would need to submit an application in both England and Wales even if they aren't claiming BPS in one of those parts of the UK. This is because they have to declare all of the agricultural land on their holding.

When to apply as a cross border claimant

To avoid a penalty, farmers must send all BPS applications and supporting documents to the relevant paying agencies by midnight on 16 May 2016.

Meeting the BPS rules across the UK

For some scheme rules (such as rules on land eligibility), farmers need to meet the rules set by the part of the UK where the relevant land is located.

For other rules (such as rules on the minimum claim size), farmers need to meet the rules set by the part of the UK where most of the land on their holding is located. This applies even if the farmer is being paid by a paying agency for a different part of the UK.

Active farmers

There are two parts to the 'active farmer' test – the first is about business activity and the second part is about 'land naturally kept in a state suitable for grazing or cultivation'. This second part does not apply to land in England or Northern Ireland.

In Northern Ireland, the term 'active farmer' is also used when land is rented out under short term lets or conacre. This is not the same as the BPS active farmer rules.

Read the guidance for each part of the UK for more information on the active farmer rule.

Business activity

Businesses operating certain specific non-agricultural activities (sometimes called the 'negative list') won't be able to apply for BPS, unless they can prove they meet one of the 'readmission criteria'.

Applicants will need to meet the rules set in the part of the UK where most of their land is, and will need to show they meet these rules through the paying agency for that part of the UK. Some readmission criteria are based on the amount of eligible land a farmer has. This is all the land on a farmer's holding (covering all land in the UK).

If a farmer doesn't meet the active farmer rules, they won't be able to claim on any of their land, apply for entitlements or receive transferred entitlements, anywhere in the UK.

Example

A farmer with most of their land in Scotland but some land in England:

- must read the 'negative list' of business activities listed in the BPS guidance for Scotland, and
- if they are operating one of these business activities anywhere in the UK, they must meet the readmission criteria that apply in Scotland

They must send any evidence to show they meet the readmission criteria to the paying agency in Scotland. That evidence must relate to the farmer's whole holding. For example, evidence using agricultural receipts must cover the farmer's agricultural receipts across the UK.

Naturally kept land

There is no designated 'naturally kept land' in England or Northern Ireland. In Scotland, 'naturally kept land' is considered to be all land located in Payment Regions 2 and 3 (read Scotland's BPS guidance for details of those regions). In Wales, salt marshes and coastal sand dunes are considered to be 'naturally kept land'.

Farmers with naturally kept land in Scotland or Wales won't be able to apply for BPS for land anywhere in the UK if:

- their naturally kept land is more than 50% of the agricultural land on their holding (including any agricultural land in other parts of the UK), and
- on their naturally kept land they don't carry out the minimum activity set out in the scheme guidance for Scotland (for naturally kept land in Scotland) or Wales (for naturally kept land in Wales)

BPS entitlements in different parts of the UK

Each part of the UK has different BPS entitlements. To claim BPS, farmers must have the right number and type of entitlements for their land.

Example

A farmer has 20 hectares of eligible land in the Scottish BPS Payment Region 1 and 10 hectares of eligible land in the English SDA moorland region.

To receive a BPS payment on all their eligible land, the farmer would need:

- 20 entitlements for Scottish BPS Payment Region 1, and
- 10 entitlements for the English moorland region

Applying for new BPS entitlements

England, Northern Ireland, Scotland and Wales each have a national reserve (sometimes referred to as a 'regional reserve'). Some farmers, such as new and young farmers, will be able to apply for BPS entitlements which are funded from these national reserves.

To obtain more entitlements, eligible farmers need to apply for them to all the paying agencies where they:

- have eligible land, and
- wish to be allocated more entitlements

Example

A farmer has eligible land in England, Wales and Scotland and wants to apply to for entitlements in Wales and Scotland. They need to apply to the paying agencies for Wales and Scotland.

The same principle applies if eligible farmers with entitlements in Northern Ireland, Scotland or Wales wish to apply to have the value of these entitlements increased to the regional average entitlements value.

The farmer also needs to meet the rules for the national reserve set in the part of the UK in which they are applying.

Example

A young farmer:

- has 15 hectares of eligible land in the English SDA moorland region, and they already hold 10 entitlements in this same region; and
- has 12 hectares of eligible land in Scottish Payment Region 1, but doesn't hold any entitlements in this region

They could apply to the paying agency in England and the paying agency in Scotland for new entitlements. If successful, they would be allocated 5 additional English moorland entitlements and 12 entitlements for Scottish Payment Region 1.

Read the guidance for each part of the UK for information about applying for entitlements – including the application deadlines.

Minimum claim size

Farmers must meet the minimum claim size set by the part of the UK where most of the land on their holding is located. The minimum claim sizes are shown below. If farmers don't meet the relevant minimum claim size, they can't claim for land anywhere in the UK.

Minimum claim size	
England	5 hectares
Northern Ireland	3 hectares
Scotland	3 hectares (or €100 for farmers claiming voluntary coupled support)
Wales	5 hectares

Some farmers may find themselves on the threshold of the minimum claim size. The examples show how to work out if a farmer is meeting the minimum claim size.

Example 1

A farmer has a 5 hectare holding. They claim for 5 hectares of eligible land: 3 hectares in England and 2 hectares in Wales (with the right entitlements to support them).

Most of the land on this farmer's holding is in England, so they must meet the minimum claim size under the BPS rules set by England (5 hectares). Their claim will be accepted as they have claimed on a total of 5 eligible hectares (with 5 entitlements).

Example 2

A farmer has a 3 hectare holding. They claim for 3 hectares of eligible land: 2 hectares in England and 1 hectare in Scotland (with the right entitlements to support them)

Most of the land on this farmer's holding is in England so they must meet the minimum claim size under the BPS rules for England (5 hectares). Their claim will not be accepted because they have claimed on a total of only 3 eligible hectares (with 3 entitlements). They will not be paid BPS anywhere in the UK.

Young farmer payment

The young farmer payment is a top-up payment made on the number of eligible hectares (with entitlements) a farmer uses to claim BPS.

Applicants will need to apply in each part of the UK where they want to receive the young farmer payment.

The young farmer payment works differently in different parts of the UK (see table below).

Part of the UK	Can get the 'young farmer' payment for:	Minimum age to apply:
England	Up to 90 hectares	18 years old
Northern Ireland	Up to 90 hectares	No minimum
Scotland	Up to 90 hectares	16 years old
Wales	Up to 25 hectares	16 years old for sole traders and partnerships 18 years old for limited companies

The payment is first made for whichever part of the UK the farmer claims most eligible land (with entitlements) in. This can't exceed the maximum set in that part of the UK (see table above). If the farmer has claimed less than 90 eligible hectares (with entitlements) there, they could also receive the payment in other parts of the UK – as long as they do not exceed the maximum that applies in those other parts of the UK.

A young farmer can't receive a payment on more than a total of 90 hectares (with entitlements) for their holding (land in all parts of the UK).

Example 1:

A young farmer has claimed 80 eligible hectares (with entitlements) in England and 20 eligible hectares (with entitlements) in Scotland.

As most of their claimed land is in England, that is used first for the young farmer payment. They can receive the payment on all 80 hectares in England. As this is less than the overall maximum of 90 hectares, they can also receive the payment on 10 hectares in Scotland, not the full 20 hectares the farmer applied for. This gives a total of 90 hectares.

Example 2:

A young farmer has claimed 80 eligible hectares (with entitlements) in Wales and 70 eligible hectares (with entitlements) in England.

As most of their claimed land is in Wales, that is used first for the young farmer payment. They can receive the payment on 25 hectares in Wales (the maximum set in Wales). As this is less than the overall maximum of 90 hectares, they can also receive the payment on 65 hectares in England. This gives a total of 90 hectares.

Example 3:

A young farmer has claimed 50 eligible hectares (with entitlements) in England and 30 eligible hectares (with entitlements) in Wales.

As most of their claimed land is in England, that is used first for the young farmer payment. They can receive the payment on all 50 hectares in England. As this is less than the overall maximum of 90 hectares, they can also receive the payment on 25 hectares in Wales (the maximum set in Wales). This gives a total of 75 hectares.

Farmers applying for the young farmer payment in Northern Ireland need to have a level 2 qualification in agriculture (or a related subject containing at least one farm business management module) to be eligible for the payment on any land in Northern Ireland.

Read the guidance for each part of the UK for more information.

BPS eligible land in different parts of the UK

The land used to claim BPS payments must meet the rules that apply in the part of the UK where the land is located. Read the guidance for each part of the UK for more information.

The 'land at your disposal' date in England is 16 May 2016 but is 15 May 2016 elsewhere in the UK.

The greening rules across the UK

Farmers need to meet the greening rules on crop diversification and ecological focus areas (EFAs) at a 'holding' level, not separately for land in each part of the UK. This means that they need to include all of the land on their holding (covering all land in the UK) when working out:

- what their crop diversification and EFA requirement is, and
- whether they meet those requirements

Farmers should also include all of their holding (covering all their land in the UK) when working out if they can use any of the greening exemptions. The greening exemptions are the same across the UK for crop diversification and EFAs.

Read the guidance for each part of the UK for more information.

What this means for the crop diversification rules

The crop diversification rules set out how many crops a farmer must grow and over what percentage of their arable land.

A farmer should include all of the eligible land on their holding (covering all their land in the UK) to work out:

- their arable area
- the percentage of their arable area taken up by each crop, and
- whether any of the crop diversification exemptions apply to them

A farmer doesn't have to have the required number - and shares - of crops in each part of the UK they have land. They only need to meet the crop diversification rules across their holding as a whole.

Example:

A farmer has more than 30 hectares of arable land (which includes land in England and Wales). They would need 3 crops to meet the crop diversification rules. In this case, the main crop can't cover more than 75% of their arable land and the 2 main crops can't cover more than 95% of their arable land.

They plant as follows:

- main crop (65%) in England
- 2nd crop (25%) in England
- 3rd crop (10%) in Wales

They would meet the crop diversification rules for their holding (covering all their land in the UK).

Each part of the UK has lists of crops that qualify under crop diversification. Farmers need to use the lists that apply where their land is located.

What this means for ecological focus areas (EFAs)

Farmers with more than 15 hectares of arable land also need to have EFAs that are the equivalent to at least 5% of their arable land, unless they qualify for an exemption. Read the guidance for each part of the UK for more information.

A farmer should use all the eligible land on their holding (covering all their land in the UK) to work out:

- their arable land
- their 5% EFA requirement, and
- whether any of the EFA exemptions apply

Farmers can use areas and/or features on any part of their holding (in any part of the UK) to meet the 5% EFA requirement. This means that a farmer doesn't have to meet the 5% requirement in each part of the UK they have land – they only need to meet it across their holding as a whole.

A farmer must meet the EFA rules that apply in the part of the UK where the land or feature being used for EFA is located. There are differences in which areas and features a

farmer can use for EFA in each part of the UK. There are also differences in what areas and features are worth as part of EFA.

The table below shows which features and areas can be used in each part of the UK.

Type of EFA	England	Northern Ireland	Scotland	Wales
Fallow land	✓		✓	✓
Hedges (called hedges and wooded strips in Wales)	✓	✓		✓
Field margins			✓	
Ditches		✓		
Traditional stone walls		✓		✓
Earth banks		✓		
Archaeological features		✓		
Buffer strips	✓		✓	
Agro-forestry		✓		
Catch crops or green cover	✓		✓	
Short rotation coppice		✓		✓
Afforested areas		✓		✓
Nitrogen-fixing crops	✓	✓	✓	✓

Example

A farmer's holding includes land in England and Wales. They could use areas or features on their English land, their Welsh land or both to count towards their 5% EFA requirement.

The farmer could choose to use a catch crop on their English land to meet the requirement, but couldn't use a catch crop on their Welsh land.

Permanent grassland

Farmers must meet the rules that apply in the part of the UK where their permanent grassland is located. Read the guidance for each part of the UK for more information.

Cross compliance rules

Farmers need to meet the cross compliance rules that apply in the part of the UK where the land, or livestock, is located. Read the guidance for each part of the UK for more information.

Payments, reductions and penalties

BPS payments over €150,000

If a farmer's BPS 2016 payment (excluding the greening payment and any young farmer payment) is more than €150,000, the amount over €150,000 will be reduced.

The table below shows the reductions that apply in different parts of the UK:

Reductions	
England	Amounts over €150,000 will be reduced by 5%
Northern Ireland	Amounts over €150,000 will be reduced by 100%
Scotland	Amounts over €150,000 will be reduced by 5%
Wales	Amounts: <ul style="list-style-type: none">• over €150,000 and up to €200,000 will be reduced by 15%• over €200,000 and up to €250,000 will be reduced by 30%• over €250,000 and up to €300,000 will be reduced by 55%• over €300,000 will be reduced by 100%

Reductions are worked out based on the proportion of the total value of entitlements a farmer has used to claim payment in each part of the UK. Then the reduction rates above are applied.

The example below shows how reductions are worked out.

Example

A farmer's BPS payment (excluding greening and any young farmer payment) would be €250,000. Out of the total value of the farmer's entitlements used to claim payment:

- 25% of the total value of entitlements were used in Northern Ireland
- 75% of the total value of entitlements were used in Scotland

Therefore €100,000 (the amount over €150,000) will be reduced as follows:

- 25% under reduction rates for Northern Ireland

- 75% under reduction rates for Scotland

Northern Ireland:

Multiply the amount to be reduced (€100,000) by the share of the value of entitlements to be used in Northern Ireland (25%). Then multiply the answer by the reduction rate for Northern Ireland (100%).

$$€100,000 \times 0.25 \times 1 = €25,000.$$

For entitlements in Northern Ireland the payment is reduced by €25,000

Scotland:

Multiply the amount to be reduced (€100,000) by the share of the value of entitlements used in Scotland (75%). Then multiply the answer by the reduction rate for Scotland (5%).

$$€100,000 \times 0.75 \times 0.05 = €3,750.$$

For entitlements in Scotland the payment is reduced by €3,750

Total reduced payment

Original payment: 250,000

Minus the reduction for Northern Ireland: €25,000

Minus the reduction for Scotland: €3,750

Total BPS payment (excluding greening and any young farmer payment): €221,250

Reductions and penalties

If a farmer doesn't meet the scheme rules, reductions and penalties may be applied. They may be applied if a farmer:

- makes an application for payment or application for entitlements after midnight on 16 May
- makes certain changes to their application after the deadline
- doesn't meet the scheme eligibility, greening or cross compliance rules, or
- doesn't declare all of their agricultural land parcels

All of the land on a farmer's holding (covering all their land in the UK) is treated together for the purposes of calculating reductions and penalties.

More details about reductions and penalties are available in the scheme guidance for each part of the UK.

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

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

Website: 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 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.

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 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.

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, 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. Website: 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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This document is also available on our website at www.gov.uk/rpa/bps2016

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

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