

January 2013

Single Payment Scheme Handbook for England 2013

Extra guidance on dual use of land

This document tells you more about the rules for dual use of land. Please keep this document with the SPS Handbook we have sent to you.

The section headings below relate to the relevant place in the SPS Handbook.


Section B – Important things to look out for in 2013

Further to paragraph 2 on page 8 of the handbook:

Dual use

If you plan to use land to apply for SPS that someone else is using to claim for a different CAP scheme, for example, Entry Level Stewardship, Environmentally Sensitive Areas, Countryside Stewardship, the English Woodland Grant Scheme or another Rural Development Programme for England scheme (RDPE), please read section H of this handbook. It includes examples of the type of evidence you need to keep to show how you meet the scheme rules. When considering if you are in a dual use situation, remember that all land that is part of an RDPE agreement is relevant, not just the land parcels which have specific options on them.

We will be carrying out further checks this year. If these show that you have not met the scheme rules, we will remove the ineligible land from your claim and may apply penalties. If you are unsure that you can show you meet the scheme rules, you may want to get independent professional advice about your circumstances.

 For information about reductions and penalties read section N

Section H – Land at your disposal


Further to paragraph 6 on page 50:


6a Can I use land to apply for SPS that someone else is using to apply for an RDPE scheme?


There are limited circumstances when you can use land to apply for SPS at the same time as someone else is using the same land to apply for an RDPE scheme. We call this dual use. You must each be able to show how you meet the rules of the schemes you are applying for.

For example:

- A licensor uses some land to apply for SPS and the licensee uses the same land to apply for the UTP. This is allowed if the licensor meets the SPS rules for having 'land at their disposal', and at the same time, the licensee has the land 'available' to them for grazing to meet the UTP rules.
- A tenant uses some land to apply for SPS and the landlord uses the same land to apply for an RDPE agri-environment scheme, for example, Entry Level Stewardship or a woodland scheme such as English Woodland Grant Scheme. The tenant must meet the SPS rules, including having the 'land at their disposal'. At the same time the landlord must be able to show that they have 'management control' to meet the RDPE rules.

 Different arrangements apply to common land. For information about who can use common land to apply for SPS read section I

 For more information about the UTP read section J

 For more information about eligibility for SPS of land in RDPE agri-environment and woodland schemes read section G

To show 'management control', the landlord must either:

- carry out the activities listed in their RDPE agreement (or employ a contractor to do this) provided there is a reserved right to do so in the tenancy agreement. For example, the landlord may have a reserved right to manage timber which may allow them to carry out the activities required in an RDPE woodland scheme; or
- require the tenant to meet the conditions of the RDPE agreement provided there is an obligation for this in the terms of the tenancy agreement.

You must have a written record that shows how you have land at your disposal and you are eligible to apply for SPS.

6b How do I show that I am eligible to apply for SPS if someone else is using the land for an RDPE scheme?

If you are using land to apply for SPS, and on the date of the SPS application deadline another farmer or land manager is using the same land in an RDPE agreement, you must have a written record which shows the rights and responsibilities you each have for the land. This written record should:

- set out how you meet the SPS scheme rules, including having the land at your disposal;
- show how the other party has management control for an RDPE agreement. This must include evidence that the RDPE applicant has given you a copy of their RDPE agreement conditions and that you have been required to meet them (unless the RDPE agreement holder can show that they are carrying out the required activities themselves).


This written record could be your tenancy agreement, a letter or both. This must be signed and dated by both parties before the SPS application deadline. We may ask to see a copy of this as part of our checks.

You may want to get independent professional advice relating to your circumstances, especially if you previously had a verbal agreement with the other party.

6c What happens if you find that I am not eligible to apply for SPS or another scheme?

If we find that you are not eligible to apply for SPS on some of the land that you have claimed, we will remove ineligible land from your claim, we may apply penalties, and we may delay making any SPS payment.

If Natural England or the Forestry Commission finds that the other party is not eligible to claim for the RDPE scheme, reductions and penalties, as set out in the relevant scheme guidance, may apply to their claim.

 For information about reductions and penalties read section N