



Rural Payments  
Agency

# Basic Payment Scheme: rules for 2021

v2.0

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09/06/2021 – v2.0	England Woodland Creation Offer (EWCO) launched on 9 June 2021 and added to list of schemes throughout the document on pages 15,16, 26 and 38. Also, includes addition of Nature for Climate Fund on page 30 and Green Recovery Challenge Fund on page 31.
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# Basic Payment Scheme: rules for 2021

Find out how the BPS 2021 scheme works

## Updates for 2021

The Basic Payment Scheme (BPS), including the young farmer payment, will continue for the whole 2021 scheme year.

BPS is run by the Rural Payments Agency (RPA).

We will confirm the entitlement values later in the year.

To get payments, you will need to follow the rules set out in this guide. This includes on-site inspections of farms.

At the time of publication, the Direct Payments to Farmers (Reductions and Simplifications) (Amendment) (England) Regulations 2021, which set the progressive reductions for BPS 2021 and the percentage of the young farmer payment, and remove the existing 5% reduction for payments over €150,000, are awaiting Parliamentary approval. Subject to that approval, we expect the Regulations to come into force towards the end of March.

## Progressive reductions

Over the next 7 years, we plan to progressively reduce Direct Payments. This gradual approach is designed to help everyone manage the transition as smoothly as possible. The same amount will be available to the farming sector in every year of this Parliament, though the way it is distributed will change. This means funds will be redirected straight back into Countryside Stewardship and our new schemes. 2021 will be the first year that BPS payments will be reduced as part of the phasing out of Direct Payments.

As in previous years, your BPS 2021 claim value will depend on the number of entitlements, with eligible hectares, you claim in 2021 and on whether you claim the young farmer payment. Progressive reductions will be applied to your total claim value (after any other reductions or penalties). See the 'Changes to BPS payments from the 2021 scheme year: progressive reductions' section for more details.

The 5% reduction previously applied to BPS amounts over €150,000, no longer applies.

# Simplifications and other updates in 2021

## Greening

From the 2021 scheme year, we have permanently removed all three of the greening requirements: crop diversification, Ecological Focus Areas and the greening permanent grassland rules. Other rules still apply to protect permanent grassland, please see information below. You will no longer receive a separate greening payment; the greening funds will be included in the value of BPS entitlements.

## Permanent grassland

As in previous years, you must not plough or convert permanent grassland if it is in a Natura 2000 site. For any other permanent grassland, you must get a screening decision from Natural England before you plough up or improve land which hasn't been cultivated for 15 years, or which is uncultivated or semi-natural grassland (or another semi-natural area). If you are in a Countryside Stewardship (CS) or Environmental Stewardship (ES) agreement you will also have to meet the rules for permanent grassland for those schemes.

## Cross border farms

If you have land in more than one part of the UK (England, Northern Ireland, Scotland or Wales), this will no longer be treated as a single holding for BPS. BPS applications submitted in England will now be treated completely separately from any applications you make to other UK administrations for land in another part of the UK. You should only enter your English land onto your BP5 form.

The rules in this guidance booklet apply to your English claim and land. We will calculate and apply any reductions or penalties to your English claim only. You should read the guidance issued by the devolved administrations for the rules that will apply to claims you make in other parts of the UK.

To apply for BPS in England you need to claim on at least 5 entitlements, with at least 5 hectares of eligible land in England (the minimum claim size). However, from 2021 there is an exemption for some farmers who had a cross-border holding in 2020. You meet the exemption if, for BPS 2020, you:

- had eligible land in England and another part of the UK
- had less than 5 hectares of eligible land in England; and
- claimed BPS and were eligible for payment in relation to some or all of your English land.

Other than this minimum claim size exemption for some farmers, your application will be treated the same as any other English application.

## **Entitlement usage**

You no longer have to use all of your entitlements (in a single application) at least once every 2 years to avoid losing some in the second year. This means you don't have to sell or lease out entitlements to keep them. There is more information in the 'Entitlements usage' section or you can see updated information in the Rural Payments service.

## **Force Majeure**

The deadline to tell us about a force majeure and exceptional circumstance event for BPS, has been extended to 8 weeks. Please see the 'Force majeure and exceptional circumstances' section for more information.

## **Deadline for making changes to your application / submitting supporting evidence**

We can now accept changes to your application and supporting evidence relating to your application up to midnight on 11 June without incurring any penalties. See 'Changing a BPS application' for more details.

## **Obvious errors**

We have also changed the rules so that we can be more flexible on what can be considered an 'obvious error' on your application. See 'Obvious errors' for more details.

## **New Forest common land**

How we allocate common land in the New Forest was subject to a consultation exercise which closed on 3 February. Read 'How to claim on common land in the New Forest' for more details.

## **Payment in sterling**

We will continue to make all BPS 2021 payments in sterling only. There is no option to receive your payment in euros. We will also show entitlement values in sterling and calculate the payments in sterling rather than using an exchange rate.

## Be aware of fraud

Fraudsters may target farmers who receive subsidy payments and we are aware that in the past some customers have received emails, texts and telephone calls claiming to be from RPA or Defra. Links to a fake website designed to look like an authentic RPA or Defra online service are sometimes included in the message.

We will not send emails or text messages with links to websites asking you to confirm your personal details or payment information. We strongly advise anyone who receives such a request not to open the link and delete the item.

As fraudsters may target farmers who receive subsidy payments, remember:

- never discuss your bank account details with someone you don't know
- we will not ask anyone to make a payment over the phone
- delete any emails or texts you do not believe are genuine, and do not open any links – Our main email addresses are:
  - [ruralpayments@defra.gov.uk](mailto:ruralpayments@defra.gov.uk)
  - [rpa@notifications.service.gov.uk](mailto:rpa@notifications.service.gov.uk)
- be cautious about what information you share externally, particularly on social media

If you suspect an attempted fraud or feel you have been the subject of fraud, you can contact:

- RPA's Fraud referral team on 0800 347 347 or [FraudInConfidence@RPA.gov.uk](mailto:FraudInConfidence@RPA.gov.uk)
- Action Fraud (the UK's national reporting centre for fraud and cyber-crime) on 0300 123 2040

# Key dates for BPS 2021

## Important dates for the Basic Payment Scheme

Date	Information
1 January 2021	Official start of the BPS 2021 scheme year
1 January to 31 December 2021	Land used to apply for BPS must be eligible all year Cross compliance rules must be followed all year
18 March 2021	Application window opens
17 May (midnight) 2021	Land used to apply for BPS in 2021 must be 'at your disposal' (only the person who has the land at their disposal on this date can use it to be paid for BPS in 2021) BPS and Young and new farmer 2021 application deadline to avoid late application penalties  Deadline for BPS 2021 entitlement transfers (only the person who holds an entitlement on this date can use it to be paid for BPS in 2021)  Deadline for RPA to receive applications for new entitlements from young or new farmers, to avoid late application penalties Deadline for RPA to receive the Young and new farmer form for the young farmer payment from first time applicants, or from existing young farmer applicants when the business structure has changed.
11 June (midnight) 2021	'Late application' deadline. Deadline for supporting evidence and certain changes to the application (no penalty) and late applications with penalties. Any applications, certain changes to applications and supporting evidence received after this date will not be accepted (except in cases of force majeure and exceptional circumstances).
1 December	BPS 2021 payment window opens
31 December 2021	Official end of the BPS 2021 scheme year
30 June 2022	BPS 2021 payment window ends

# Making an application

What you need to declare on your BPS application (online or on paper) and when.

## How to apply

You must make an application every year. If you don't apply, you will not receive a payment in that scheme year.

In 2021, you can again apply online – using the Rural Payments service - or on paper using a BP5 application form.

We will update the BPS 2021 GOV.UK page with all the latest guidance and information about the scheme.

To [apply online](#), click 'start now'. There is a 'Help' link on many of the screens that go through each process step-by-step. Print or download a copy of all the [onscreen help](#). For more information about applying online, read 'How to apply for BPS online in 2021', available on GOV.UK.

## Applying on paper

If you submitted a paper BP5 application form for BPS in 2020, you will receive a BPS 2021 application pack, including a BP5 application form. However, it is quicker and easier to apply online. Call us on 03000 200 301 to set up an application form.

## What you need to declare on your application

You (or your agent, if you use one) need to declare the following:

- all the agricultural land parcels and areas on your holding
- the 'land use' and any non-agricultural features that can't be applied for
- what eligible land you are using with your entitlements (which must be at least 5 ha, except for those who qualify for the cross border exemption)
- how many entitlements you want to use to apply for payment (which must be at least 5, except for those who qualify for the cross border exemption)

If applicable, you may also need to:

- declare any non-agricultural land on your holding that is part of an agri-environment or woodland scheme, such as CS, ES or any Nature for Climate Fund woodland creation scheme
- declare if you want to apply for the young farmer payment
- fill in a separate application to apply for new entitlements (young and new farmers only). (See 'Young and new farmers, 'Applying for entitlements' for more information)



- provide evidence, where required, to prove you meet the definition of a farmer, young or new farmer. See (See 'Young and new farmers, 'Applying for entitlements' for more information) for more information
- submit separate applications to other UK paying agencies if you want to apply for BPS for land you have in other parts of the UK. See 'Cross border farms' for more information

If you (or your agent) use the online system, you should be aware that the system will accept zero values, for example in Part C, Land Use Codes (C7) and Area to Activate (C8). You should check C7 and C8 to make sure that they do not contain 0.0000 as this can reduce the value of your BPS payment or cause your application to be rejected.

If you use an area of common land for grazing, you must declare all of your rights in your application form (even if you choose not to apply for payment for them).

## Common Errors

Some of the most common errors on applications include (this list is not exhaustive):

- Part C: missing information, for example, missing or zero values in the Land Use Code (C7) and Area to Activate (C8) boxes
- Part C Online: zero values found
- incomplete paper Continuation booklets: Failure to complete all columns on the Continuation booklets, for example C7 and C8
- missing pages of the BP5 application form and Continuation booklets failure to check that the online application has been submitted

What you need to do:

- carefully check the form before it is submitted, particularly for any erroneous zero values
- indicate how many paper Continuation booklets you are sending in with the application Section L of the BP5 application form
- check that all parts of the paper Continuation booklet are included in the envelope you are sending
- make sure that you do not remove any blank pages from the paper BP5 application form as this may cause issues in processing the application

## Deadline for applications

The deadline for applications is midnight on 17 May 2021. Applications received after midnight on 17 May 2021 but by midnight on 11 June 2021 will be considered as 'late applications' and will receive a penalty (apart from cases of force majeure and exceptional circumstances). Applications received after 11 June 2021 will be rejected (apart from cases accepted as force majeure and exceptional circumstances).

## **Acknowledgement of BPS applications**

We recommend that you use a postal method with tracking and proof of posting to submit your paper BP5 application.

We will acknowledge receipt of the application within 10 working days of receipt. If you do not receive an acknowledgement within 15 working days of posting your form, you should contact our helpline on 03000 200 301. Please note that we do not send receipts for continuation booklets sent separately to the BPS application.

We are not responsible for applications that are delayed or lost in the post.

## **Sending supporting evidence with an application**

If you need to send supporting evidence (for example, young or new farmer proof of form, continuation booklets, evidence of New Forest marking fees, or RLE1 form), you must do this early enough for us to receive it by midnight on 11 June 2021. We will not apply a penalty, as long as we received your application before midnight on 17 May 2021.

You have until 30 June 2021 to submit your hemp seed labels (see 'Hemp' for more details).

Your application will be rejected if the supporting evidence (apart from hemp seed labels) is received after midnight on 11 June 2021.

We will need originals of any evidence, so you are advised to keep copies. All evidence should be sent to us by post. Before sending evidence, you should put your name and address on the front page, and your SBI on every page. We will post confirmation receipts for any evidence received and if we are returning evidence, we will do so by post (usually within 3 working days).

You should keep any evidence after we have returned it, in case we need to see it again in the future.

## **Reminders**

We send reminders of the application deadline to the address and email address of you or your agent, if you have one. You should check that all of these details are up to date in the Rural Payments service before you submit your application.

As you are normally expected to have planned to submit your application accurately and on time, you should not rely on a reminder to submit your application.

## **Changing a BPS application**

You must tell us as soon as possible if you want to change an application after it has been submitted. This applies to paper and online applications that need to be resubmitted. Amendments can only be made without penalty if the original application was submitted by midnight on 17 May 2021.

Until midnight on 11 June 2021 you can, without a penalty:

- add a land parcel
- increase the eligible area of a land parcel
- increase the area you want to use to activate your entitlements

We cannot accept any of the changes listed above after midnight on 11 June 2021. You can change the land use of a land parcel up to 11 June 2021 without penalty. You may also be able to make land use changes after 11 June 2021 without penalty under the 'notified error' provisions. You cannot make these changes if:

- you have already been told about any non-compliance affecting the land parcel you want to amend
- an inspection has revealed a non-compliance affecting the land parcel you want to amend
- you have received advance warning of an inspection

### **'Notified errors'**

You can notify us of errors in your application at any time unless you have:

- already been told of any non-compliances in your application, or
- received advance warning of an inspection

We will not apply penalties in these specific cases of notified errors. For information on amendments which will increase an applicant's payment value read 'Changing an application after it has been submitted' in the 'Payments, reductions and penalties' section.

### **'Obvious errors'**

If you make a mistake or miss something off your application (which is obvious from a simple check of the application), we may be able to correct it at any time without applying a reduction or a penalty (this is sometimes called an 'obvious error'). When considering whether a mistake is an obvious error, where reasonable, we may carry out a basic review not only of your application but also of the information we hold about your application if you ask us to do so (for example, if you think we may have emails or telephone records which help to show that the mistake was an obvious error). However, if you make the same mistake more than once, we may not accept it as an obvious error a second time.

This applies to paper and online applications. As you change the declared land areas on which you claim from year to year, if a zero value is found in any part of the application, that zero value will be accepted. We cannot assume that all of the land declared on the application is being claimed on. The zero value found, may result in a reduced payment or the application being rejected.

## Withdrawing all or part of an application

You can withdraw an application without penalty at any time unless:

- you have already been told about any non-compliances in your application
- an inspection has revealed any non-compliances in your application
- you have received advance warning of an inspection

You can withdraw part of an application without penalty (for example, a land parcel and/or entitlements) at any time unless:

- you have already been told about any non-compliance affecting the part of the application you want to withdraw
- an inspection has revealed a non-compliance affecting the part of the application you want to withdraw
- you have received advance warning of an inspection

This includes non-compliances found by us or the Forestry Commission, when cross-checking BPS information against agri environment or woodland scheme agreements (such as Countryside Stewardship (CS) or any Nature for Climate Fund creation scheme).

## Force majeure and exceptional circumstances

If force majeure and exceptional circumstances mean that you cannot follow the BPS scheme rules (including cross compliance relating to your BPS claim), we may not apply a penalty or reduction, and may also accept an application after the 11 June 2021 deadline.

For BPS, you must inform us of your circumstances **within 8 weeks** from the date on which you are in a position to do so. You will also need to send evidence to demonstrate your claim. This is a legal requirement and we have no flexibility to change this rule.

Force majeure is defined as 'abnormal and unforeseeable circumstances, outside the control of the operator concerned, the consequences of which, in spite of the exercise of all due care, could not have been avoided except at the cost of excessive sacrifice on your part'.

Some examples of force majeure and exceptional circumstances might be, but are not limited to:

- the death or long-term professional incapacity of a farmer
- a severe natural disaster which affects the agricultural land
- an accident which destroys livestock buildings
- an epizootic disease which affects livestock a plant disease which affects crops

- expropriation of all or a large part of a holding if the farmer could not have anticipated this on the day they made their application.

## **Evidence**

You will have to prove that, despite taking every care that could have been expected of you, the force majeure / exceptional circumstances prevented you from meeting your obligations.

Evidence should include details of the actions taken, with an explanation of the events and the dates they occurred.

Cases are assessed on an individual basis on the evidence supplied.

You can post your force majeure / exceptional circumstances request and evidence to:

Rural Payments Agency  
PO Box 352  
Worksop  
S80 9FG

We recommend that you use a postal method with tracking and proof of posting.

Or, you can submit your force majeure / exceptional circumstances request by email to [ruralpayments@defra.gov.uk](mailto:ruralpayments@defra.gov.uk).

The email must be from an email address registered in the Rural Payments service and have the correct permissions for the business.

We are not responsible for force majeure / exceptional circumstances requests that are delayed or lost in the post.

## **Who can claim BPS**

To claim BPS (and receive entitlements), you must be a 'farmer'.

### **The BPS definition of 'a farmer'**

For BPS, a 'farmer' is a person/group of people, or a business that does at least one of the following on their holding:

- produces, rears or grows agricultural products – including harvesting, milking, breeding animals and keeping animals for farming purposes
- keeps some land in a state suitable for grazing or cultivation by keeping it clear of any scrub that can't be grazed (sometimes known as 'dense scrub')

For BPS, these are known as an 'agricultural activity'.

## **What is a 'holding'?**

A 'holding' is all of the land a farmer manages and uses for an agricultural activity in England. For most farmers, this is all of the land they should declare under their Single Business Identifier (SBI).

A holding can have more than one County Parish Holding (CPH) number, as well as land in more than one location.

## **Land**

To claim BPS each year, you must declare all of the agricultural land on your holding (all of the land you manage and use for an agricultural activity in England), as well as any non-agricultural land you use for agri environment or woodland schemes, or the National Forest Changing Landscape Scheme, Woodland Carbon Fund, HS2 Woodland Fund, or any Nature for Climate Fund woodland creation scheme.

## **Agricultural land - what you must declare**

Agricultural land is:

- arable land (including temporary grassland and fallow land)
- permanent grassland
- permanent crops

All other land is 'non-agricultural'.

## **What land to declare on an application**

You must have at least 5 hectares of eligible land to apply for BPS (unless you qualify for the cross border exemption) and each land parcel you use in your application must have a total eligible area of 0.1 hectares or more. You can only use land that is 'at your disposal' on 17 May 2021 to apply for BPS.

On your BPS application, you must declare all the agricultural areas on your holding that is 'at your disposal' and is 0.01 hectares or more – whether or not you use that land to apply for BPS.

You must also declare all the non-agricultural land you are using for any of the following schemes:

- Countryside Stewardship (including Higher Tier, Mid-Tier, Woodland Creation Grant)
- Entry Level Stewardship
- Organic Entry Level Stewardship
- Uplands Entry Level Stewardship
- Higher Level Stewardship
- Energy Crops Scheme
- Habitat Scheme
- English Woodland Grant Scheme
- Farm Woodland Premium Scheme
- Farm Woodland Scheme
- National Forest Changing Landscape Scheme
- Woodland Carbon Fund
- HS2 Woodland Fund
- any Nature for Climate Fund woodland creation scheme (for example the England Woodland Creation Offer)

## Land ‘at your disposal’

You can only apply for payment in 2021 on land that is ‘at your disposal’ on 17 May 2021.

You have a land parcel at your disposal if you are the:

- owner-occupier, farming the land parcel yourself or employing a contractor
- tenant with a Farm Business Tenancy under the Agricultural Tenancies Act 1995 or an Agricultural Holdings Act 1986 tenancy (or equivalent). [Read more about agricultural tenancies.](#)

The land parcel is not at your disposal if you are:

- a contractor carrying out operations under the overall direction of the farmer
- a landlord whose tenant has a Farm Business Tenancy under the Agricultural Tenancies Act 1995 or an Agricultural Holdings Act 1986 tenancy (or equivalent)
- farming the land under licence

## **How to decide who has land at their disposal**

An area of land can only be at the disposal of one farmer in a single BPS scheme year. If more than one farmer is using the land they should consider:

- the rights and responsibilities they have for the land parcel, and
- how these work in practice

The land parcel is probably at the disposal of the farmer who:

- has control of the land
- has access to it
- takes profit from the land
- is responsible for meeting cross compliance rules on it

Having an agreement about who is claiming BPS does not in itself mean the land is at your disposal. When deciding who has land at their disposal, the list above is more important than what any agreement is called.

If you are inspected, you may need to provide evidence showing how you have land at your disposal.

## **Dual use: land used by more than one applicant to claim under different schemes**

A land parcel can be at your disposal on 17 May 2021, even if another applicant is using the same land parcel to claim for Countryside Stewardship, Environmental Stewardship, the English Woodland Grant Scheme or Nature for Climate Fund woodland creation scheme (such as the England Woodland Creation Offer). This is sometimes called 'dual use.'

Dual use is not allowed for Countryside Stewardship (CS) Mid-Tier agreements with a start date of 1 January 2016. For Higher Tier agreements starting 1 January 2016 and for both Mid-Tier and Higher Tier agreements starting on 1 January 2017 onwards dual use is allowed; rules applying to dual use are summarised in the CS manuals.

If you apply in a dual use situation, you must be able to demonstrate that you are meeting the rules and eligibility requirements of the relevant scheme you are claiming for. If you apply for BPS, you must have a written record which shows both:

- the rights and responsibilities you and the other applicant in the dual use situation each have for the land
- that you have the land at your disposal on 17 May 2021



This could be a tenancy agreement, a letter, or both. It must be signed and dated by both applicants before 17 May 2021. Our inspectors may ask to see this.

## **Share farming agreements**

When 2 or more farmers have a share farming agreement (but their businesses are separate legal entities), only one farmer can apply for BPS.

All of the land in the agreement must be included on that one farmer's application. They must have the land at their disposal on 17 May 2021 and hold the entitlements at midnight on 17 May 2021.

The other parties to the share farming agreement who hold other land outside of this can submit their own BPS application for the land which they are not share farming.

## **What land is eligible for BPS**

The types of agricultural land that can be eligible for BPS are:

- permanent grassland
- arable land
- permanent crops

Land is also eligible if it was used to claim for the Single Payment Scheme (SPS) in 2008 and has become non-agricultural under certain options in agri-environment and woodland agreements and is still covered by that agreement.

All of the agricultural land you use to apply for BPS must be used primarily for an agricultural activity for the whole calendar year. The land must be at your disposal on 17 May 2021.

## **Permanent grassland**

Permanent grassland is land which is used to grow grasses or other herbaceous forage for 5 or more consecutive years. It can be self-seeded or sown.

Permanent grassland includes:

- areas of bracken, salt marshes, reed beds and light scrub (including gorse bushes and briar) if the land is managed so that:
  - the areas are suitable for grazing and
  - grasses and other herbaceous forage remain predominant
- areas of heather - where these are kept in a state suitable for grazing.

Permanent grassland does not include areas of dense scrub which prevent grazing.

If the land has been re-sown with grass or other herbaceous forage during the 5 years, it is still permanent grassland.

However, if the land has been re-seeded with grass or other herbaceous forage following a catch crop (such as stubble turnips) during the last 5 years, it is arable land.

## Arable land

'Arable land' is:

- land cultivated for crop production - this includes:
  - land used for combinable crops
  - crops grown as root crops and/or fibre (including hemp)
  - crops grown for animal feed, such as forage maize and forage rape
  - field vegetables
  - cut flowers or bulbs and soft fruit (other than permanent crops)
- fallow land that is available for crop production
- temporary grassland that is available for crop production

## Fallow land

Fallow land is land which has been taken out of a crop rotation and is maintained in a state suitable for grazing or cultivation.

If you have bare soil on 17 May 2021, you should declare the code of the main crop you intend to grow in the year, even if it will be late sown. If you don't intend to sow a main crop, you should declare it as fallow (FA01).

## Temporary grassland

Temporary grassland is:

- land that has been in grass or other herbaceous forage for fewer than 5 consecutive years - it can be self-seeded or sown
- land used for livestock production, if it's been used in this way for fewer than 5 years – this includes land used for outdoor pigs

Land can only be declared as temporary grassland for 5 consecutive years. After that, it will normally become 'permanent grassland'.

If you have grassland that has been in temporary grass on 17 May 2021 for 5 consecutive years (so has been coded as TG01 in the years 2016 to 2020), this should be classed as permanent grassland from 2021.

**2016 Year 1   2017 Year 2   2018 Year 3   2019 Year4   2020 Year 5   2021 Year 6**

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Temporary grassland	Temporary grassland	Temporary grassland	Temporary grassland	Temporary grassland	Permanent grassland
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## Land in agri-environment schemes

Arable land that is taken out of production to be used for one of the agri-environment options listed below may be still treated as 'arable' land for BPS even though it may have been temporary grassland for 5 consecutive years. It may remain 'arable' land while it is being used for the agri- environment option and will not become permanent grassland.

The period of time land is used for one of these options doesn't count when working out whether temporary grassland becomes permanent grassland after 5 years.

### Example

If you have a land parcel which was temporary grassland for 3 years. The parcel was then taken out of production under an agri-environment scheme option for 5 years (see tables below).

Once the land comes out of the option, it will still be classed as temporary grassland (which is arable land). At the next BPS deadline after the land comes out of the option it will be counted as the fourth year of grassland (not the ninth).

<b>2012 (Year 1)</b>	<b>2013 (Year 2)</b>	<b>2014 (Year 3)</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020 (Year 4)</b>	<b>2021 (Year 5)</b>
Temp grassland	Temp grassland	Temp grassland	Agri- enviro scheme	Agri- enviro scheme	Agri- enviro scheme	Agri- enviro scheme	Agri- enviro scheme	Temp grassland	Temp grassland

## Environmental Stewardship

Option	Description
EC24, HC24, OC24 or OHC24	Hedgerow tree buffer strips on cultivated/ rotational land
EE1, HE1, OE1 or OHE1	2 metre buffer strips on cultivated/rotational land
EE2, HE2, OE2 or OHE2	4 metre buffer strips on cultivated/rotational land
EE3, HE3, OE3 or OHE3	6 metre buffer strips on cultivated/rotational land
EE8, HE8, OE8 or OHE8	Buffering in-field ponds on arable/rotational land
EE9, HE9, OE9 or OHE9	6 metre buffer strips on cultivated/rotational land next to watercourse
EF1, HF1, OF1 or OHF1	Management of field corners
EF4, HF4, OF4 or OHF4	Nectar flower mixture
EF5 or HF5	Pollen and nectar flower mixture on set- aside land. The land must have been set-aside at the time the applicant entered into the agreement.
EF7, HF7, OF7 or OHF7	Beetle banks
EG3, HG3, OG3 or OHG3	Nectar flower mixtures in grassland areas

<b>Option</b>	<b>Description</b>
EJ5, HJ5, OJ5 or OHJ5	In-field grass areas to prevent erosion and run- off
EJ9, HJ9, OJ9 or OHJ9	12 metre buffer strips for watercourses on cultivated/rotational land.
HE10	Floristically enhanced grass margin
EC1, HC1, OC1 and OHC1	Protection of infield trees on arable/rotational land
HC5	Ancient trees in arable fields

## **Countryside Stewardship**

<b>Option</b>	<b>Description</b>
AB1	Nectar flower mix
AB3	Beetle banks
AB5	Nesting plots for lapwing and stone curlew
AB8	Flower-rich margins and plots
AB9	Winter Bird Food
AB16	Autumn sown bumblebird mix
BE1	Protection of in-field trees on arable land
OP2	Wild bird seed mixture
SW1	4-6m buffer strip on cultivated land

<b>Option</b>	<b>Description</b>
SW3	In-field grass strips
SW4	12-24m watercourse buffer strip on cultivated land
WD3	Woodland edges on arable land
WT2	Buffering in-field ponds and ditches on arable land

## **Habitat Scheme**

### **Option**

Tier 1B

## **Permanent crops**

Permanent crops are non-rotational crops which normally occupy the land for 5 years or more (except permanent grassland) and provide repeated harvests. However, they don't need to have been in the ground for 5 years before they count as permanent crops.

These crops include crops grown in nurseries, multi-annual crops and short rotation coppice.

## **Nurseries**

These are areas of young woody plants grown in the open air, on soil, in greenhouses or under poly-tunnels for later transplantation. They include:

- vine and root stock nurseries
- fruit tree and berry nurseries
- ornamental nurseries
- commercial nurseries of forest trees (except those for the holding's own requirements grown in woodland)
- nurseries of trees and bushes for planting in gardens, parks, at the roadside and on embankments

Nursery crops do not include Christmas trees, unless they are grown in nurseries for later transplantation.

## Short rotation coppice

These are areas planted with the following species:

- Alder (*Alnus*)
- Ash (*Fraxinus excelsior*)
- Birch (*Betula*)
- Hazel (*Corylus avellana*)
- Hornbeam (*Carpinus* spp)
- Lime (*Tilia cordata*)
- Poplar (*Populus* spp)
- Sweet chestnut (*Castanea sativa*)
- Sycamore (*Acer pseudoplatanus*)
- Willow (*Salix* spp)

The maximum harvest cycle (the period between harvests) is 20 years. The initial tree planting must have taken place during or after 2000.

## Factors which can affect whether land is eligible or not

Land used with entitlements to apply for BPS must be eligible throughout the calendar year. You must also follow the cross compliance rules throughout the calendar year.

## Utility and transport works

If you have utility or transport works taking place on your land, it can sometimes mean that the land is not eligible for BPS that year, as well as breaching certain cross compliance rules. If this affects your land, you may want to seek compensation for lost payments from the organisation carrying out the work.

If this happens after you have already applied for BPS, you should either:

- ask us to remove the land from the area used to claim BPS on your application, or
- request that we consider it as 'force majeure' (each case will be considered individually)

If you could have anticipated that the work was going to take place on your land during 2021 when you applied for BPS, this will not be treated as force majeure.



## **Flooded land**

Flooded agricultural land is still eligible for BPS if the flooding is temporary and the land would otherwise still be available for agricultural activity.

Deliberate and planned flooding of agricultural land to create new watercourses and permanent wetlands, is not considered to be a temporary flooding event as the land is not being maintained in a state suitable for grazing or cultivation.

Activities that take place with the Environment Agency to manage floodwater positively and proactively will be considered on a case by case basis, although any agricultural land that floods temporarily would remain eligible.

## **Transferring land to someone else during the year**

Land can be transferred at any time. The Rural Payments service is available to do this from early 2021 until midnight on 17 May 2021.

However, where you are the person transferring the land (the transferor) and have included it on your BPS 2021 application, it is still your responsibility to make sure the land:

- stays eligible for BPS for the rest of the year (or is withdrawn from your BPS application)
- meets the cross compliance rules for the whole year (unless the person you have transferred it to – called the transferee - applied for any rural payments, in which case they take over this responsibility).

If you are transferring land, you should make sure that any contract you have is clear about what happens if any of the BPS, or cross compliance rules are broken, or if inspectors are refused access to the land.

## **Applying for BPS on land in agri-environment and woodland schemes**

Agri-environment relates to the schemes:

- Countryside Stewardship and
- Environmental Stewardship

Woodland relates to the schemes:

- Countryside Stewardship (woodland support)
- English Woodland Grant Scheme
- Farm Woodland Premium Scheme

- Farm Woodland Scheme
- Nationally funded woodland scheme to include National Forests Changing Landscapes, Woodland Carbon Fund, the HS2 Woodland Fund and any Nature for Climate Fund woodland creation (such as the England Woodland Creation Offer).

Land included in an agri-environment scheme remains eligible for BPS if it continues to be:

- 'agricultural' land (permanent grassland, arable land or permanent crops); and
- used primarily for an 'agricultural activity' throughout the calendar year; and
- is at the applicant's disposal on 17 May 2021

Agri-environment field margins, buffer strips, field corners, beetle banks, and other areas not permanently divided from the rest of the land parcel can continue to be declared under the main BPS land use code for the land parcel. Please see the 'How to apply for BPS online in 2021' guidance for more information.

## **Non-agricultural land in agri-environment or woodland schemes**

If the agri-environment or woodland scheme management requirements result in the land being taken out of agricultural use, it will normally become ineligible for BPS from the beginning of the agreement, even if required non-agricultural management activity has not yet started. You should declare the land on the BPS 2021 application under an appropriate non-agricultural land use code.

Exceptionally, land that has been taken out of agricultural use under an agri-environment or woodland scheme will remain eligible for BPS if:

1. it was used with entitlements to claim the Single Payment Scheme (SPS) in 2008; and
2. it is managed under one of the agri-environment and woodland options in the table below or, is declared under a nationally funded woodland creation scheme including the National Forest Changing Landscape scheme, the Woodland Carbon Fund, the HS2 Woodland Fund and any Nature for Climate Fund woodland creation scheme (such as the England Woodland Creation Offer).

It only remains eligible for BPS while it remains in the agri-environment or woodland scheme option. Declare this land on your BPS 2021 application under the land use code 'RD01' (remember to check that the land cover is correctly mapped as non-agricultural).

The options most likely to result in a non-agricultural land use are listed below. Some agreements will not require land managed under these options to be taken out of

agricultural use and may still be considered agricultural – see previous section on agricultural land and above.

For details of how to claim BPS on these land areas, refer to ‘How to apply for BPS Guidance’, Guidance on woodland grant schemes and Forestry Commission Office Notice ON 42 and Agri-environment and BPS guidance on GOV.UK.

## **Countryside Stewardship option**

<b>Option code</b>	<b>Option name</b>
CT2	Creation of coastal sand dunes and vegetated shingle on arable land and improved grassland
CT4	Creation of inter-tidal and saline habitat on arable land
CT5	Creation of inter-tidal and saline habitat by non-intervention
CT7	Creation of inter-tidal and saline habitat on intensive grassland
WCG	Woodland Creation Grant
WD7	Management of successional areas and scrub
WD8	Creation of successional areas and scrub
WT6	Management of reedbed
WT7	Creation of reedbed
WT8	Management of fen
WT9	Creation of fen
WT10	Management of lowland raised bog
WD1	Woodland Creation and Maintenance

## **Higher Level Stewardship (including agreements underpinned by Entry Level Stewardship or Organic Entry Level Stewardship) and Upland Entry Level Stewardship**

**Option code    Option name**

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HC7            Maintenance of woodland

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HC8            Restoration of woodland

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HC9            Creation of woodland in Severely Disadvantaged Areas

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HC10           Creation of woodland outside Severely Disadvantaged Areas

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HC15           Maintenance of successional areas and scrub

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HC16           Restoration of successional areas and scrub

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HC17           Creation of successional areas and scrub

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HP7            Creation of inter-tidal and saline habitat on arable land

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HP8            Creation of inter-tidal and saline habitat on grassland

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HP9            Creation of inter-tidal and saline habitat by non-intervention

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HQ3            Maintenance of reedbeds

---

HQ4            Restoration of reedbeds

---

HQ5            Creation of reedbeds

---

HQ6            Maintenance of fen

---

HQ7            Restoration of fen

---

**Option code    Option name**

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HQ8            Creation of fen

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HQ9            Maintenance of lowland raised bog

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HQ10          Restoration of lowland raised bog

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UC22          Uplands woodland livestock exclusion

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## **Farm Woodland Premium Scheme and Farm Woodland Scheme**

<b>Option code</b>	<b>Option name</b>
A	Arable land (outside the Severely Disadvantaged Area)
AL	Arable land in the lowlands
IA	Improved arable
IG	Improved grassland
IL	Other improved land in the lowlands
OC	Other improved land
U	Unimproved land
UU	Unimproved land/Upland

## **English Woodland Grant Scheme**

<b>Option code</b>	<b>Option name</b>
WCG	Woodland creation grant
WCGS	Woodland creation grant special broadleaf

## **Woodland Creation under Nature for Climate Fund**

<b>Option code</b>	<b>Option name</b>
NCF	Nature for Climate Fund woodland creation schemes

# Woodland Creation under Green Recovery Challenge Fund

Option code    Option name

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GRCF            Green Recovery Challenge Fund woodland creation schemes

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## Non-agricultural activities allowed on eligible land

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

The following non-agricultural activities are allowed – the land is still eligible because the land is still being used primarily for an agricultural activity:

- walking
- bird watching
- military training
- nature/farm visits by schools or other educational institutions
- horse or bicycle riding along bridleways, or on tracks, margins or other permitted routes
- fishing
- shooting game
- deer stalking
- drag hunting
- paragliding and hang-gliding
- hedge-laying competitions, local ploughing competitions or other demonstrations of farming that do not break the cross compliance rules (though if these events include trade stands, they are covered by the list of activities with a 28-day limit)

## Activities allowed for 28 days

These non-agricultural activities are allowed – but not for more than a total of 28 days in the relevant calendar year (whether consecutive or not):

- clay shooting
- car boot sales
- car parking

- country fairs and shows
- farm auctions and shows
- horse riding activities using apparatus or fixtures, like show-jumping or an in-field cross- country course
- ballooning
- festivals and events
- scout or guide camps (or similar)
- using land for television and film locations
- caravan sites
- motor sports
- grass airstrips
- rearing game in pens which are moved at least once every 28 days
- agricultural competitions which include trade stands

The 28 days should include all the days the land was unavailable, including preparing the land and/or clearing up afterwards. If an activity lasts less than 24 hours, it still counts as one of the 28 days.

If these activities go over the 28-day limit due to circumstances beyond your control, this might be considered force majeure.

## **Examples of other activities not usually allowed**

Land used for the following activities will usually mean that it is being used primarily for a non- agricultural activity:

- playing golf (on a golf course, including bunkers, greens, fairways, copse, patch of trees and areas of rough that are part of the playing course)
- training of race horses on training gallops
- zoological conservation (land on which animals, not typically kept in England for farming purposes, are kept primarily for study, conservation or display to the public)

This land cannot be used to apply for BPS unless you can prove that the non- agricultural activity does not significantly interfere with the agricultural activity on the land.



# Agricultural and non-agricultural areas and features

Some areas and features on agricultural land are non-agricultural and are not eligible for BPS.

We will map all permanent non-agricultural areas and features that are 0.01 hectares or bigger. You must declare and deduct all non-agricultural areas and features from your eligible areas.

Some non-agricultural areas and features may be small and scattered across a land parcel. If together they add up to 0.01 hectares or more, we will map them as 'notional' or 'scattered' areas. You must declare and deduct them from your eligible areas.

You must notify us of any permanent non-agricultural areas and features are not correctly mapped.

Non-agricultural areas and features that are temporary will not be mapped, but you must still declare them separately on the BPS application and deduct them from your eligible areas.

## Example

For example, you have the following non-agricultural areas and features in a field:

- scree
- animal shelters on hard standing, and
- a pond

Each individual feature is less than 0.01 hectares in size, but together they have a total area of more than 0.01 hectares, so you must declare them on a BPS application.

Grass strips (such as tracks, strips, margins and headlands) do not need to be identified separately from the main land use of the parcel (the cropped area).

## List of features

We regularly receive aerial photography, satellite imagery and Ordnance Survey map updates. We proactively use this information to keep the land parcel information we hold up to date and to check any applications or claims you make. You need to sign into the Rural Payments service to look at and check your digital maps online.

You should check and correct your application form to reflect the position on the ground as at 17 May 2021. Contact us if you have any queries about the eligibility of land on your holding.

The list of [land codes](#) can be found on GOV.UK. The table below shows some commonly used features and their eligibility for BPS.

<b>Feature</b>	<b>BPS eligibility</b>
Animal shelters	Eligible if a temporary or mobile structure on a natural surface (such as bare soil).  Not eligible if they are on a hard standing.
Bracken	Eligible (as 'permanent grassland') only if it's managed so that: - grasses and other herbaceous forage remain predominant, and - it is suitable for grazing
Buildings (residential, commercial or agricultural)	Not eligible.
Earth banks	Eligible if protected under cross compliance.
Farmyards	Not eligible.
Fenced off pylons	Not eligible.
Gallops (non-grass)	Not eligible.
Glasshouses and polytunnels	Not eligible if on a hard standing or if used to grow ineligible crops.
Grass strips, buffer strips or margins located in parcels of arable and/or permanent crops	Eligible as long as they meet the cross compliance rules
Hard standing	Not eligible.

<b>Feature</b>	<b>BPS eligibility</b>
Heap – compost, muck	<p>Eligible if:</p> <ul style="list-style-type: none"> <li>- it is stored in the field on which it is to be used</li> <li>- the amount stored is appropriate for that field (larger amounts are ineligible)</li> <li>- it will be used as part of the normal cultivation cycle</li> </ul> <p>Not eligible if it is in the same place for more than 3 years.</p>
Heap – straw, hay, silage	<p>Eligible if:</p> <ul style="list-style-type: none"> <li>- it is stored in the field from which it was harvested, or on which it is to be used</li> <li>- the amount stored is proportionate to what could/can actually be used on the field the heap is located in (larger amounts are ineligible)</li> </ul> <p>Not eligible if it is in the same place for more than 3 years.</p>
Heather	Eligible (as ‘permanent grassland’) if it’s managed so that it is in a state suitable for grazing.
Hedges	Eligible if protected under cross compliance.
Machinery (on grass or bare soil)	Not eligible if it has been stored in the same place for a year or longer.
Peat production	Land used for producing peat is not eligible.
Pond	Not eligible.
Railway	Not eligible.
Recreational parks	Not eligible, unless used primarily for an agricultural activity.
Residential gardens	Not eligible.

<b>Feature</b>	<b>BPS eligibility</b>
Salt marshes and reed beds	Eligible (as 'permanent grassland') only if it is managed so that: - grasses and other herbaceous forage remain predominant, and - it is suitable for grazing.
Scree / rock outcrops/boulders	Not eligible.
Scrub – including gorse bushes and briar	Eligible (as 'permanent grassland') only if it is managed so that:  - grasses and other herbaceous forage remain predominant, and - it is suitable for grazing.  'Dense scrub' is not eligible.
Solar panels	Land parcels which contain solar panels are ineligible. If the panels are concentrated in one end of a field, the rest of the land can be eligible if the 2 areas are registered as individual land parcels and separated by a permanent boundary.
Stone banks	Eligible if protected under cross compliance.
Stone walls	Eligible if protected under cross compliance.
'Table top' strawberries	As long as the land is eligible (for example not concrete or hard standing), the cropped area, including normal headlands, is eligible and should be counted as strawberries for crop diversification.
Tracks, paths and roads	Grass tracks are always eligible if they are used as part of the agricultural activity carried out in the land parcel. Natural surfaced tracks for example bare soil, are eligible when used as part of the agricultural activity carried out on the land parcel and are not part of a

## Feature

## BPS eligibility

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transport network.

Tracks and paths are ineligible if the track, path or road has an artificial sealed surface (for example, tarmac, concrete, stone)

A track forms part of a transport network when it is:

- providing direct access from public roads to houses, farmyards or buildings
- directly linking houses, yards and buildings in different parts of the holding

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## Trees

Trees are eligible if they are:

- (a) individual trees scattered within an agricultural parcel;
- (b) lines of trees (of a maximum of two trees wide) on an agricultural parcel;
- (c) groups of trees on an agricultural parcel that are not adjacent to a boundary; and
  - i) the area underneath the canopy is used for agricultural activity (this condition is met where it is suitable for cultivation or grazing of livestock);
  - ii) more than 50% of the area underneath the tree canopy is covered by grasses, other herbaceous forage or arable land.

or

- (d) groups of trees on an agricultural parcel that are adjacent to a boundary and;
  - i) the area underneath the canopy is used for agricultural activity (this condition is met where it is suitable for cultivation or grazing of livestock);
  - ii) if unsuitable for cultivation, the entire area under the canopy is accessible to farm animals for grazing; and
  - iii) more than 50% of the area underneath the tree canopy is covered by grasses, other herbaceous forage or arable land.

All other groups of trees are ineligible woodland. Areas of land set-aside for woodland creation under Agri-environment or national woodland scheme,

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Feature	BPS eligibility
	including National Forest Changing Landscape Scheme, Woodland Carbon Fund and any Nature for Climate Fund woodland creation scheme (such as England Woodland Creation Offer) may still attract BPS payments if specific conditions are met.
Turf production	Eligible unless it is used for fuel production.
Walkway - grass strip between fenced paddock	Eligible if: <ul style="list-style-type: none"> <li>- it is 0.1 hectares or more in size</li> <li>- it is grazeable and predominantly used for agriculture</li> </ul>
Watercourses – ditch / drain / dyke / river / stream	Eligible if it forms part of a field boundary and if it is up to 4 metres wide for the majority of its length.  If it is not part of a field boundary, it is eligible if the overall area of ineligible features in the field does not exceed 0.01 hectares

# Common land and shared grazing

You can claim BPS for your use of a common or area of shared grazing, based on the rights that you hold.

## What you need, to be able to claim

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

- have the correct rights; and
- be using the common land

The common or area of shared grazing used to support your application must be:

- eligible land; and
- at your disposal on 17 May 2021 - you must be able to exercise your rights by turning out animals on the common on this date

You must also meet the cross compliance rules. If a cross compliance rule is broken on the common, you may have your BPS payments reduced for your whole holding.

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

You are 'using' a common if you:

- exercise your grazing rights by turning out stock on it, including grazing for conservation purposes; or
- participate in a relevant Environmental Stewardship or Countryside Stewardship agreement on it; or
- 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; or
- 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

We will allocate the entire eligible area of the common amongst those farmers who are using the common and have declared their rights on it.

We can only allocate the eligible area of a common after all BPS applications have been submitted, because we need to know:

- the total number of rights of common being used and declared on the common in that year; and
- how many rights each individual farmer declares (as a percentage of the total used rights).

We use that percentage to calculate each farmer's 'notional area' – the amount of eligible land in hectares that the farmer can claim for the common. So, if a common had an eligible area of 200 ha with farmer A declaring 200 Livestock Units (LU)s of rights on it, Farmer B 120 LU and Farmer C 80 LU, the resulting area allocation would be:

<b>Farmer</b>	<b>Rights declared (LU)</b>	<b>% of total declared rights on common</b>	<b>Area allocated (Ha)</b>
Farmer A	200	50%	100
Farmer B	120	30%	60
Farmer C	80	20%	40

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

## What rights you must declare

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

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

If you are not using the common, you must not declare your rights.



## What rights to claim on

You 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'.

You can claim BPS on a common if your 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 you are the owner of the common, or the owner has granted that right to you.
- 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 your right.

You cannot 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 you must keep for common land

You must have evidence of your right and use of grazing on common land or shared grazing. We may ask to see this evidence.

You may need to identify the right in the register of common land held by the relevant local authority.

Most rights of common are registered as being attached to land. If you are not the owner or occupier of that land, you may have to prove that you are entitled to the right (for example, because you are lessees of a right).

We cannot 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.

## How to describe rights

If you 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, you should claim for each type of animal separately.

We convert rights into Livestock Unit (LU) equivalents so they can be valued on a uniform basis. The LU equivalents of different types of rights are shown in the table below. If you used common land rights for your BPS 2020 application, this information will normally be shown on your BPS 2021 application. If you need to amend this information for your BPS 2021 application, you should enter the number of rights now being claimed against and we will do the LU conversion for them. For instance, if you declared 200 sheep rights for BPS 2020, your BPS 2021 application will be pre-printed with this information. To declare 250 sheep rights for BPS 2021, you should amend the application to show 250 sheep rights and we will convert these into LU equivalents ( $250 \times 0.15 \text{ LU} = 37.5 \text{ LU}$ ).

If you have the right of grazing for alternative types of animal, for example for 10 cattle or 30 ponies, you should claim for the animals that give you the highest number of LUs.

If your rights are in the form of gates, gaits or stints, you must explain your 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, you would enter one cow, as that would give the higher LU value.

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

## The rules on claiming surplus grazing

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

- we calculate that there is a surplus
- the owner meets the definition of a 'farmer' as described on page 9 and
- the owner is using the common.

### How we calculate if there is a surplus on a common

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, we use:

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

We work out the LU equivalent of all the rights registered on a common or area of shared grazing and, if this is less than the total number of LU that can be accommodated, the owner can apply for the difference as a surplus. We will work this out every year to take account of any change in the total registered rights or the eligible area of commons or areas of shared grazing.

Some common land has registered rights for so many animals that we will calculate that there is no surplus grazing available to the owner. If there is a surplus, we will convert it into a 'notional' land area for the owner to apply for BPS on. You can apply for an owner's surplus if the owner has granted that right to you, for instance as a tenant. You cannot apply for 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).

## Shared or split rights

Some rights can be used on more than one common. Where this is the case, we will allocate the rights between the commons in proportion to your relative eligible areas. For example, if you have:

- 100 LU of rights that can be used on Common A (150 ha) and Common B (50 ha) = 200ha
  - $(150/200 \times 100 \text{ LU}) = 75 \text{ LU}$  would be allocated to Common A
  - $(50/200 \times 100 \text{ LU}) = 25 \text{ LU}$  to Common B.

## How to claim on common land in the New Forest

The public consultation in the New Forest closed on 3 February 2021. We have considered the responses to the consultation and published the [Government public consultation response](#).

Out of the options put forward for consideration, over 87% of respondents were in favour of using marking fees declared during a reference year as a proxy for rights of pasture and pannage held by common.

As a result, we will create a reference amount for every commoner who has claimed BPS in the New Forest. This will be based on the highest number of marking fees that each commoner has declared in the reference years 2015 – 2020 (the 'best year'). This will provide a representation of commoners' grazing rights that we will use for the annual allocation calculation for BPS, removing any link to current grazing activity. There will no longer be a requirement for New Forest commoners to provide copies of Marking Fee receipts to support their BPS claims.

In April 2021, we will write to customers who have previously claimed BPS on the New Forest with details of their reference amount.

When completing your 2021 BPS application, if you have not received notification of your reference amount, you should use your application to declare an interest in the common rights you have in the New Forest and under the 'Number of rights of this type' enter '9999'. If you have received notification of your reference amount, you should use these details to complete your 2021 BPS application.

### What to do if you are claiming BPS on the New Forest for the first time in 2021.

New farmers in the New Forest who started commoning in 2020 and will claim BPS on the New Forest for the first time in 2021, will be allocated a reference amount based on their marking fees paid for 2020. If you claim BPS on the New Forest for the first time in 2021, you should use your BPS application to declare an interest in the common rights you have in the New Forest and under the 'Number of rights of this type', enter '9999'.

You also need to send us copies of the marking fee receipts with your application form. We must receive these by midnight on 11 June 2021 (the BPS deadline for supporting evidence). The receipts need to show that the marking fees were paid for animals grazed in the New Forest in 2020 and be signed by an Agister on behalf of the Verderers. You may have paid some fees in 2019 in advance for animals to be turned out in 2020. We cannot accept these – you can only use receipts from 2020 for grazing in 2020. Each marking fee receipt can be used to support only one application. The receipts may be checked against records held by the Verderers. You may be asked to demonstrate that you were new to commoning in the New Forest in 2020.

# Entitlements

How to transfer BPS entitlements in 2021.

## What are entitlements?

Entitlements are what you use to get paid for BPS. To use entitlements to get paid, you must have and declare at least 5 entitlements and at least 5 hectares of eligible land to use with them on your BPS application unless you qualify for the cross border exemption. See 'Cross border farms' for more details.

For each land parcel you want to apply for BPS on, the minimum number of entitlements you can use for the land parcel is 0.10.

If you are a 'Young' or 'new' farmer, you can apply for an allocation of new entitlements by filling in a 'Basic Payment Scheme (2021) Young and new farmer form' and sending to us (see 'Young and new farmers', 'Applying for entitlements' for more information). You can choose to give up your entitlements by filling in a RLE1 form.

## Payment 'regions'

Entitlements and land in England are divided into 3 payment regions:

- Non-Severely Disadvantaged Area (non-SDA)
- Severely Disadvantaged Area (SDA)
- SDA Moorland

An entitlement can only be used with land that is in the same payment region. 'English' entitlements can't be used with land outside of England.

## Entitlement values

Entitlements have different values depending on which payment region they are in. SDA Moorland entitlements are worth less than SDA and non-SDA entitlements (which will have similar values).

The value of entitlements will be published later this year (this usually happens in November). Entitlement values do not include the Young Farmer Payment, which is worked out separately. You can find out your entitlements information by looking online, as we no longer issue entitlements statements.

## Entitlement usage

You no longer need to use all your entitlements to claim payment at least once every two years, to prevent them being taken away. This means that you don't have to sell or lease entitlements to protect their usage. You can see updated information in the Rural Payments service.

The relaxation of the rules applies from the 2021 scheme year. The rules in previous years are unaffected.

## Transferring entitlements

There are different ways entitlements can be transferred:

- by sale or gift
- by lease or sublease
- through inheritance
- as part of a merger or scission

Entitlements can be transferred online using the Rural Payments service or by using a RLE1 form. Transfers through inheritance or sublease can only be done using a RLE1 form.

We will let you know once the transfer is complete. Both paper and electronic transfers will be confirmed by an online notification in the Rural Payments service.

Leased entitlements automatically return to the lessor at the end of the lease. We no longer contact both parties after the lease end date has passed, to tell you that the entitlements have transferred back. If you are the lessor and want to end the lease early or extend the term, you must tell us by letter or email before the change takes effect. Only the lessor can extend the lease, although both lessor and lessee may give notice by letter or email to end the lease early.

## When to transfer entitlements

Only the person who holds the entitlements at midnight on 17 May 2021 can use them to get paid in that scheme year. This means all entitlement transfers for the BPS 2021 scheme year also need to be made by midnight on 17 May 2021.

You should make sure we receive your transfer request by midnight on 17 May 2021 at the latest – otherwise the transfer will not be effective until the 2022 scheme year. You no longer need to send your RLE 1 form 6 weeks in advance of the effective transfer date.

## **Invalid transfers**

If you receive entitlements that you should not have had, the transfer is invalid and you will lose those entitlements. In these cases, the transferred entitlements (whether they were leased or sold) will not be returned to the transferor.

If you have already transferred them again (to a third business), that business may lose some or all of the entitlements which came from the invalid transfer.

# Hemp

It is against the law to grow hemp without a licence from the Home Office. You can apply for one on GOV.UK.

There is a list of eligible varieties of hemp in the Common Catalogue of Varieties of Agricultural Plant Species.

If you are a hemp grower and apply for BPS, you must declare the land parcels you are growing hemp on. You must write your Single Business Identifier (SBI) on the official seed labels and send them to us, so we can confirm the varieties of hemp grown. We must receive them by midnight on 17 May 2021 (or by 30 June 2021 if you have not sown hemp by 17 May 2021). We will return these labels.

Please contact us for advice if the hemp will be sown after 30 June 2021. We will test a sample of all the hemp grown. This is done to make sure that the tetrahydrocannabinol content is below the level set by legislation. Inspectors from the Food and Environment Research Agency (FERA) carry out these tests on our behalf.

Hemp growers will receive a letter by 9 July 2021 confirming whether we have selected your hemp for testing. If you are selected, you must not harvest your hemp until we have completed the inspection.



# ‘Young’ and ‘new’ farmers

Young farmers and new farmers can apply for new entitlements.

## Applying for entitlements

To apply for new entitlements in 2021, you (or your agent, if you have one) must fill in and sign the ‘Basic Payment Scheme (2021) Young and new farmer form’. Then arrange for a registered accountant or solicitor to complete the certificate at the end of the form to confirm your status as a young or new farmer (there is a list of acceptable qualifications on the form). The form and certificate are available at [www.gov.uk/rpa/bps2021](http://www.gov.uk/rpa/bps2021).

You must return the completed form and certificate to us by midnight on 17 May 2021. Applications received after midnight on 17 May 2021 but by midnight on 11 June 2021 will be considered as ‘late applications’ and will receive a penalty.

You must:

- meet the definition of a farmer (read ‘The BPS definition of ‘a farmer’’)
- have at least 5 hectares of eligible land (except for those who qualify for the cross border exemption)
- say whether they are applying as a ‘young’ farmer or a ‘new’ farmer
- provide evidence to prove their ‘young’ or ‘new’ farmer status

If you receive an allocation of new entitlements, you cannot apply for new entitlements again in future years. These new entitlements are funded from the ‘national reserve’.

## About the entitlements for young or new farmers

You can receive a maximum of one entitlement for each hectare of eligible land you declare on your BPS application, minus the number of entitlements you already hold.

These entitlements work the same way as all other entitlements – read the entitlements section on page 32 for more information about how to use them.

A ‘young’ or ‘new’ farmer application for entitlements may be rejected if you have sold any entitlements in the last year, because this might be considered ‘artificial’ (read ‘Artificiality’ for more information).

## Young farmers

To apply as a young farmer, you need to show that you:

- are at least 18 years old, but not more than 40 years old, in the scheme year that you make (or made) your first successful BPS application
- set up or took control of an agricultural business for the first time no more than 5 years before the submission of your first successful BPS application, for example:
  - 1 January 2014 or later if your first successful BPS application was submitted in 2019
  - 1 January 2015 or later if your first successful BPS application was submitted in 2020
  - 1 January 2016 or later if your first successful BPS application will be submitted in 2021
- are in control of the agricultural business that you are applying for new entitlements for – this can be as a sole trader

## New farmers

To apply as a new farmer, you need to show that:

- you are at least 18 years old when you make your application for new entitlements
- your business started an agricultural activity in 2013 or later
- you make (or have made) your first successful BPS application no later than 2 years after the calendar year in which the business started farming.
- you did not carry out (or were not in control of carrying out) an agricultural activity in the 5 years before your business started an agricultural activity
- you are in control of the farm business that you are applying for new entitlements for – this can be as a sole trader

## Example

A farm business started in 2019. To apply for new entitlements, the farmer in control of this business cannot have carried out - or been in control of carrying out - any agricultural activities between 1 January 2014 to 31 December 2018.

They must make their first successful BPS application by 2021.

## What does 'in control' mean for young and new farmers?

The individual 'in control' of a business is the person who has more than 50% of the shares and votes in the business.

Organisations which do not expose the people directing the business to financial benefit or harm resulting from the success or failure of the business cannot apply for entitlements. Examples include charities, trusts or public bodies.

A sole trader holding 100% of the business shares and votes is 'in control'. Farmers 'in control' of a business are the 'Head of holding'.

## How the 'in control' rule works for partnerships

For partnerships, you must have more than 50% of the shares and votes in a business. Shares can mean the profit share.

If you do not meet these requirements on your own, you could still meet the young and new farmer rules if one of the following applies:

- there is a formal agreement between you and one or more of your partners in the business to vote together, so together you have a majority of the business votes and shares, or
- you jointly own shares with one or more of the other partners in the business, giving you overall majority control. If there is more than one young farmer in a business and together you have a majority of the shares and votes, you don't need a formal written agreement to vote together. However, you must apply as joint Heads of holding.

## Important note

If more than one farmer is in control of a business:

- everyone in control must meet the new farmer criteria in order to be a 'new farmer'
- if any person in control meets the young farmer criteria, that person may apply for the young farmer payment

## Example 2

Farmer A has 30% of the shares and votes, and is a young farmer

Farmer B has 30% of the shares and votes, and is **not** a young farmer Farmer C has 40% of the shares and votes, and is **not** a young farmer

As long as Farmer A has a formal written agreement with Farmer B to vote together, they have a majority of the shares and votes (60%). Farmer A can apply for

entitlements for this business as a young farmer (as long as Farmer A meets the other young farmer rules).

### **Example 3**

Farmer A has 30% of the shares and votes, and is a young farmer Farmer B has 30% of the shares and votes, and is a young farmer Farmer C has 40% of the shares and votes and is not a young farmer

Farmer A and Farmer B together, have a majority of the shares and votes (60%). Both of them as “joint heads of holding” can apply for entitlements for this business as young farmers (as long as they meet the other rules), without the need for a formal written agreement.

# The young farmer payment

You can also apply for a top-up payment.

As a young farmer, you can apply for an extra payment on top of your BPS payment. This is worth up to 17.5% of the average value of all the entitlements you hold, multiplied by the number of entitlements you use to claim BPS - but only the first 90 entitlements you use count. The 17.5% figure is different from previous years because the entitlement values will now include the greening funds. Please see 'Young farmer payment'.

## Who can apply for the young farmer payment

You can apply for the young farmer payment for a maximum of 5 years (while the scheme continues to run), starting from the year of your first successful young farmer payment application. This change took effect from 2018. Before then, young farmers could only receive the payment for 5 years from the year they started or took control of their business.

To apply in 2021, you must:

- be at least 18 years old when you make (or made) your first successful BPS application, but not more than 40 years old in the year of that BPS application. You only have to meet the age criteria the first time you successfully apply for BPS
- be in control of the farm business applying for BPS. See 'What does 'in control' mean for young and new farmers'
- have set up or took control of an agricultural business for the first time no more than 5 years before the submission of your first successful BPS application

### Example 1

A young farmer set up or took control of the business in 2016. They must make their first successful BPS application no later than 2021.

### Example 2

A farmer's date of birth is 6 April 1977. They make their first BPS application in 2017. At the time of that application they are 40 years old. Providing they meet the other criteria, they will be classed as a young farmer up to and including 2021.

Rules which applied from 2018 onwards, mean that you can now apply for the young farmer payment for 5 years (while the scheme continues to run), starting from the

year you make your first successful young farmer payment application, provided you meet the criteria above. This means that if you had reached the end of the 5 year period under the old rules, you may now be eligible to apply for the payment for additional years from 2018 onwards.

After successfully applying for the young farmer payment, if you did not then apply in one or more of your 5 years (or your application was rejected, for example, because you did not provide the required evidence), you are still eligible to apply in any remaining years of the 5 year period, provided you are still eligible.

### **Example 3**

A young farmer set up or took control of their business in 2017 and made their first successful young farmer payment application that year. They did not receive the payment in 2018 or 2019 because they did not provide the necessary evidence with their application. They would still be eligible to apply for the young farmer payment in 2020 and 2021 (the remaining years in their 5 year period) if they continue to meet the eligibility criteria.

## **How to apply**

You must indicate that you wish to apply for the young farmer payment on your BPS application, even if you have applied before.

### **Applying for the young farmer payment for the first time**

The first time you apply for the young farmer payment, you must also fill in a [Basic Payment Scheme \(2021\) Young and new farmer form](#) available on GOV.UK.

You also need to arrange for a registered solicitor or accountant to fill in the certificate at the end of the form. The list of recognised qualifications is part of the Basic Payment Scheme (2021) Young and new farmer form. You must then submit the form and certificate to us.

### **If you have previously applied for the young farmer payment**

If you have been previously assessed as eligible for the young farmer payment and your business structure has not changed since you last successfully applied for the young farmer payment, you do not need to send another Basic Payment Scheme (2021) Young and new farmer form, or an 'Accountant or Solicitor' certificate. The same applies if you were assessed as eligible for the young farmer payment in an earlier scheme year, but did not apply for the young farmer payment in 2020, and there has been no change to your business structure since you last successfully applied for the young farmer payment.

If your business structure has changed, you must send another 'Basic Payment Scheme Young and new farmer application form' and 'Accountant or Solicitor' certificate.

## **Completing the 'Accountant or Solicitor' certificate**

Where one is needed, the certificate to confirm the status of a new or young farmer will need to have been completed by a registered accountant or solicitor. You can find the certificate at the back of the Young and new farmer form. The certificate must be a statement of factual findings and the accountant or solicitor must use **documentation supplied by the applicant to confirm their status** within the agricultural business. Examples of acceptable evidence are detailed in the certificate.

It is your responsibility to make sure that the documents you give to the accountant or solicitor are up to date and accurate. The accountant or solicitor must not be an employee or a director of the agricultural business.

## **Submitting the form and certificate**

**The accountant or solicitor should return the completed certificate to you, along with the supporting documents you supplied to them.**

You must then submit the original form to us by midnight on 17 May 2021. You can submit the certificate up to 11 June 2021. We will not accept the form or certificate after 11 June 2021.

You should keep the documents you sent to the accountant or solicitor for any future inspection by us and you may want to keep a copy of the form for your records.

We will contact you later in 2021 to tell you if your application for the Young farmer payment was successful.

# Inspections

To check that you are following the BPS rules, we will inspect a selection of applicants every year.

## How inspections work

Either an inspector will visit a farm in person, or we will use aerial photography and satellite images. Most inspections are unannounced, which means we will not give any advance notice.

If you are selected for inspection, you must allow the inspector (and anyone with them) to check your land, animals, storage facilities and farm records.

If the inspection finds that the rules are not being followed, there may be reductions and penalties applied to your BPS payment.

The inspector will also check that you are following the cross compliance rules.



# Payments, reductions and penalties

If you don't meet the scheme rules, we can reduce your payments and apply penalties.

## Payments

Your total payment for BPS can be made up of:

- your main BPS payment
- a young farmer payment (if you successfully apply)

As the greening rules have been removed for 2021, your total payment no longer includes a separate greening payment. The greening money will instead be included in the value of your BPS entitlements.

Each part of a BPS payment is calculated separately - including having reductions and penalties applied. They are then added together to form the total BPS payment.

Soon after receiving your payment, you will receive a 'Remittance Advice' to confirm how much you have been paid. This will be followed by a Claim Statement which will explain how we calculated your payment value (including any reductions and penalties).

## Payment in sterling

We will continue to make all BPS 2021 payments in sterling.

## Bank account details

We will use the bank account details we already hold to pay you. Call us before 12 November 2021 if you want to be paid into a different account.

## BPS entitlement values and 'payment rates'

BPS payments are based on the value of entitlements. The value of a BPS entitlement depends on the payment region it is in. Entitlement values will be published later this year, (usually in the autumn).

## Average entitlement value

To work out the value of a BPS payment, we calculate your 'average entitlement value'. We use this figure when calculating payments and applying reductions and penalties.

To work out your average entitlement value, we multiply the number of entitlements you have correctly used to apply for payment in a region, by the entitlement value for that region. If you have entitlements in more than one region, we do this calculation for each region, then add the totals together. It then divides this figure by the number of entitlements (across all regions) you have correctly used to apply for payment.

Here's an example (using 2020 entitlement values):

A farmer has 50 non-SDA entitlements but has only claimed payment correctly for 45. They also have 20 SDA moorland entitlements which they have claimed payment for correctly.

non-SDA:  $45 \times \text{£}233.21 = \text{£}10,494.45$

SDA moorland:  $20 \times \text{£}63.95 = \text{£}1279.00$  Total =  $\text{£}11,773.45$

The farmer's average entitlement value is therefore:

$\text{£}11,773.45 / 65 = \text{£}181.13$

This is then rounded to 2 decimal places, which gives  $\text{£}181.13$ .

If you have entitlements in only one region, your 'average entitlement value' will be the same as the entitlement value for that region.

## How we calculate BPS payments

The main BPS payment and the young farmer payment (if applicable) are calculated separately (including any reductions and/or penalties applied) and then added together to form the total payment for BPS.

### Main BPS payment

To work out the value of your main BPS payment, we multiply the number of entitlements you used correctly to apply for payment, by your average entitlement value.

Here's an example (using 2020 entitlement values):

As in the previous example, a farmer has 50 non-SDA entitlements but has only claimed payment correctly for 45.

They also have 20 SDA moorland entitlements which they have claimed payment for correctly.

The farmer's average entitlement value is  $\text{£}181.13$

To calculate the value of the main BPS payment, RPA then multiply the average entitlement value by the number of entitlements they have correctly used to claim payment:

$$£181.13 \times 65 = £11,773.45$$

So the main BPS payment is £11,773.45 (before penalties or reductions are applied).

## Changes to BPS payments from the 2021 scheme year: progressive reductions

We plan to phase out Direct Payments in England from 2021 to 2027. This means progressive reductions will be made to payments, starting with BPS 2021. (For more information about our plans to phase out Direct Payments and the reductions that will apply in later years, read our booklet [Farming is changing](#) by searching for 'Future farming: changes to farming in England' on GOV.UK .

Progressive reductions will be applied to your BPS payment (including any young farmer payment) after all other reductions and penalties have been applied.

The progressive reductions work in payment bands, on a sliding scale. This means there will be higher reductions applied to amounts in higher payment bands. We are taking this approach as we think it is the fairest and the best way to help you manage the transition in a sustainable way for your business.

For the 2021 scheme year, we will reduce your BPS payment (including any young farmer payment) by the percentages in the table below. Your BPS 2020 payment will not be affected.

<b>Portion of the payment</b>	<b>Claim year 2021: reduction percentage to be applied to the corresponding portion of the payment</b>
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£30,000.00 or less	5%
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amounts above £30,000.00 and no more than £50,000.00	10%
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amounts above £50,000.00 and no more than £150,000.00	20%
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Portion of the payment	Claim year 2021: reduction percentage to be applied to the corresponding portion of the payment
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amounts above £150,000.00	25%
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For example, for a BPS 2021 claim worth £40,000, a 5% reduction would be applied to the first £30,000 (a reduction of £1,500) and a 10% reduction would be applied to the next £10,000 (a reduction of £1,000). So, the revised payment would be reduced by £2,500 to £37,500.

## Young farmer payment

To work out the value of the young farmer payment, we multiply the number of entitlements you have activated by a figure corresponding to 17.5% of the average owned or leased in payment entitlements. It is only paid on up to a maximum of 90 entitlements.

Here's an example (using 2020 entitlement values):

A young farmer has 100 non-SDA entitlements but has only claimed payment correctly for 80. They also have 20 SDA entitlements which they have claimed payment for correctly.

First we work out the total value of the entitlements the farmers has correctly used:

Non- SDA:  $80 \times £233.21 = £18,656.80$

SDA:  $20 \times £231.56 = £4,631.20$

Total = £23,288.00

Then divide it by the number of entitlements used:  $£23,288.00 / 100 = £232.88$ .

This gives the farmer's 'average entitlement value'. RPA then calculate what 17.5% of this is (shown to two decimal places):  $£232.88 \times 0.175 = £40.75$  (this is the farmer's 'young farmer payment' rate). The young farmer payment only applies to a maximum of 90 entitlements.

Therefore, although this farmer has correctly used 100 entitlements in total to claim for payment, the top-up will only apply to 90:  $£40.75 \times 90 = £3,667.86$

Therefore, the value of the young farmer payment in this example is £3,667.86 (unless reductions or penalties are applied).

## Reductions and penalties

We can only pay you for the eligible land that you correctly declare and that you are using properly to follow the scheme rules.

If there is something wrong with your application or if you did not meet all of the scheme rules, we may have to apply penalties. There are also some reductions which we have to apply according to the legislation.

Your Claim Statement will show any reductions or penalties applied to any parts of your BPS payment. It will also show any cross compliance penalties.

Reductions and penalties are applied to each part of a BPS payment in the following order:

- penalties for applying for payment on more eligible land than you have
- penalties for late applications
- penalties for not declaring all of the agricultural land parcels on the holding
- reductions to the size of the young farmer payment (but only if the number of applications exceeds the budget for 2021)
- penalties for not meeting the cross compliance rules
- a progressive reduction applied to the net value of the payment

In cases of force majeure and exceptional circumstances, we may not reduce a claim or apply penalties.

A farmer has eligible land made up of 20 hectares in the non-SDA area, 16 hectares in the SDA area and 30 hectares in the SDA moorland area.

They have 20 non-SDA entitlements, 15 SDA entitlements and 32 SDA moorland entitlements

Their payments will be based on the lower of their entitlements or eligible land. They have no penalties and no Young Farmer payment.

Their payments will be:

Type of payment	non-SDA	SDA	SDA Moorland
Main BPS payment	20 x £233.21 = £4,664.20	15 x £231.56 = £3,473.40	30 x £63.95 = £1,918.50

Which means their total payment is £10,056.10

## Small payments

Payments of very small amounts can attract bank charges for you as well as incur administrative costs to us. To limit these costs, we may retain very small BPS payments due to you until they reach a certain level and then pay you.

## Overpayments

If we need to recover overpayments from you, we may add interest to the amount recovered. This will be the Bank of England Base Rate +1%.

## When penalties are applied

Penalties are applied if:

- an application is late (see 'late applications' below)
- the application doesn't contain all the agricultural land on your holding
- the area of eligible land you apply for payment on is significantly larger than the area you actually have
- you provide false evidence in an attempt to qualify for the young farmer payment
- you don't follow the cross compliance rules

## Late applications

Midnight on 17 May 2021 is the deadline for BPS applications without penalty, including:

- applications for the young farmer payment
- applications for BPS entitlements (made by new and young farmers)

You can make a late application until midnight on 11 June 2021, but you will get a penalty. For each working day the application is late, the size of the penalty will be 1%.

New and young farmers applying for entitlements will also receive a 3% penalty for each working day your application is late. This penalty will only apply to the 2021 payment related to your new entitlements.

Applications for the young farmer payment will get a 1% penalty for each working day it is late. This will only apply to the value of the young farmer payment, not the main BPS payment.

You can't make applications after midnight on 11 June 2021 (apart from in cases of force majeure and exceptional circumstances). You also can't submit paperwork in

support of your application after 11 June 2021 (apart from hemp seed labels, which can be submitted until 30 June 2021).

## Changing an application after it has been submitted

Applications submitted by midnight on 17 May can be changed until midnight on 11 June 2021 without getting a penalty. See 'Changing an application' for more information.

Applications can't be changed after 11 June 2021, apart from:

- in cases of force majeure and exceptional circumstances
- where an applicant withdraws all or part of an application

We may not apply penalties in cases of force majeure and exceptional circumstances, and 'obvious' and 'notified errors'.

## Not declaring all the agricultural land parcels on a holding

If you do not declare all of your agricultural land parcels, the size of the penalty depends on how big the difference is between the number of hectares you declared and how many hectares are at your disposal.

<b>Difference between land declared and what is actually held (as a % of land declared)</b>	<b>Size of penalty</b>
up to 3% of the area determined	No penalty
more than 3% and up to 20%	1%
more than 20% and up to 50%	2%
more than 50%	3%

## Over-claiming land

A claim will be reduced if you claim payment for either of the following:

- land that is not eligible
- land that is not at your disposal We will only pay you for the areas of land you have which meet the rules (called 'the area determined') and are used with entitlements held. As well as a reduction, we may have to apply a penalty. The size of the penalty depends on the size of the over-claim.

## What is an over-claim?

An over-claim is the difference between the area you applied for (BPS or the Young Farmer payment), with entitlements and the area determined. Where the difference is 0.1 hectares or less, we will not apply a reduction or penalty - we will pay on the area you applied for.

## Penalties for BPS 2021

We simplified the penalties for over-claims of land for BPS from 2020. We now use the following to calculate penalties:

- If the over-claim is more than 2 hectares or more than 3% of the area determined, but not more than 10%, we will apply a penalty of 0.75 times the size of the over-claim.
- If the over-claim is more than 10% of the area determined, the penalty will be 1.5 times the size of the over-claim.

Size of over-claim	Size of penalty
Up to 2 hectares or 3% of the area determined	No penalty
More than 2 hectares or more than 3% but not more than 10% (of the area determined).	0.75 times the difference of the over-claim
More than 10% of the area determined	1.5 times the difference of over-claim

The penalty for over-claiming will not be more than 100% of the amount you applied for. If the size of the penalty is more than 100%, the excess will be written off (ignored).

If the penalty for an over-claim is more than the amount you are entitled to, we will recover the excess amount. This will be taken from any applications you make during the 3 years following the year of the over-claim. If we can't recover the full amount in this time, the balance will be written off.

## Young farmer payment penalties

If you do not meet the Young farmer payment rules, you will not receive a Young farmer payment.



## **Cross compliance penalties**

Cross compliance penalties are applied after BPS penalties - read the penalties section in the Guide to cross compliance 2021.

## **Force majeure and exceptional circumstances**

If force majeure / exceptional circumstances mean that you are unable to follow the scheme rules, we may not apply a penalty or reduction, and may also accept an application after the 11 June 2021 deadline. See 'Making an application', 'Force majeure and exceptional circumstances', for more details.

## **Artificiality**

If we find that the conditions required for you to obtain an advantage have been artificially created, contrary to the objectives of the regulations, you will lose some or all of your payment.

# Business structure

You can be involved in more than one business in England, if the businesses are separate entities – for example, limited companies or partnerships. The relationship between these businesses will determine if they are considered ‘separate’ for the purposes of applying for BPS. You must tell us about all agricultural businesses you are involved in. We will then decide if each business can make separate applications for BPS, or if the business should be treated as a single business for BPS purposes.

## If the structure of a business changes

Restructuring a business (for example, changing from a sole trader to a partnership or from a partnership to a limited company) may affect your:

- business status
- eligibility for BPS
- access to BPS entitlements that the business owned or leased before Contact us if you are in this situation.

## Mergers and scissions

If your business has restructured, we will assess whether a merger or a scission has taken place and as a result will determine whether the resulting business or businesses are considered separate for the purposes of applying for BPS.

A merger is when 2 or more farming businesses join to create a new farming business, controlled by at least one of the farmers who managed one of the original businesses.

A scission is when one farming business is split into 2 or more businesses.

For more information, read [Rural Payments registering and updating your details](#) on GOV.UK.

# More information and contacts

This section provides the contact details for BPS 2021

## Visit our website

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

For more information about the Basic Payment Scheme in 2021, go to

[www.gov.uk/rpa/bps2021](http://www.gov.uk/rpa/bps2021).

Look on our website for information about when the Rural Payments service may not be available.

## Email

Please quote your single business identifier (SBI) for all enquiries

## Call us

03000 200 301 (Monday to Friday 8.30am to 5pm, except bank holidays).

## Write to us or send evidence to support applications to

Rural Payments Agency

PO Box 352

Worksop

S80 9FG

Please quote your single business identifier (SBI) for all enquiries.

## Follow us on social media

Sign up for our blog at [ruralpayments.blog.gov.uk](http://ruralpayments.blog.gov.uk)

Follow us on Twitter [@ruralpay](https://twitter.com/ruralpay)

Facebook: [https://www.facebook.com/ RuralPaymentsAgency/](https://www.facebook.com/RuralPaymentsAgency/)

YouTube: [Rural Payments Agency](#)

## More information

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

To use Relay UK on a device such as a smartphone or computer you also need to download the free [Relay UK app](#) from Relay UK website 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 the [Relay UK website](#)

## Contact us to receive this guidance in large print, or another alternative format.

You can complain to us in, writing, by email or by telephone. Read the guidance about how to complain or appeal GOV.UK.

## The Farming Community Network

If you need any help or support, you 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).

## The Farming Advice Service – if you need help

The Farming Advice Service (FAS) is funded by Defra to provide free, confidential advice to farmers and farming industry advisers to help them understand and meet requirements for cross compliance, water protection and the sustainable use of pesticides.

Call their helpline on 03000 200 301 or search for more information on the Farming Advice Service online.

## Legal Notice

This guidance is our interpretation of the current regulations for BPS 2021. Only the courts can give a definitive interpretation of the law.

You may want to get independent professional or legal advice before you change anything about your business. We cannot advise you or your legal representatives on business structure.

## BPS regulations

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

- The Direct Payments to Farmers (Legislative Continuity) Act 2020 brought the following European regulations governing the 2020 scheme into UK law:
  - Direct Payments Regulation (EU) No 1307/2013
  - Financing, Management & Monitoring (IACS) Regulation (EU) No 1306/2013, insofar as it relates to direct payments
  - Direct Payments Delegated Regulation (EU) No 639/2014
  - Direct Payments Implementing Regulation (EU) No 641/2014
  - IACS Delegated Regulation (EU) No 640/2014, insofar as it relates to direct payments
  - IACS Implementing Regulation (EU) No 809/2014, insofar as it relates to direct payments
  - Horizontal Delegated Regulation (EU) No 907/2014, insofar as it relates to direct payments
  - Horizontal Implementing Regulation (EU) No 908/2014, insofar as it relates to direct payments.

The regulations listed above have been amended by domestic regulations. The key domestic regulations are:

- The Rules for Direct Payments to Farmers (Amendment) Regulations 2020 SI No 91
- The Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020 SI No 90.
- The Direct Payments Penalty Simplification (England) Regulations 2020 SI No 551
- The Direct Payments to Farmers (Amendment) Regulations 2020 No 576

- The Direct Payments to Farmers (England) (Amendment) Regulations No 1513
- The Direct Payments to Farmers and Cross-Compliance (Simplifications) (England) (Amendment) Regulations 2020 No 1387.
- The Direct Payments to Farmers (Reductions) and (Simplifications) (England) (Amendment) Regulations 2021

Other key domestic regulations are:

- 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 (as amended).

See [more legislation information](#). If the regulations change or the interpretation of them changes, we will publish more information.