

GUIDE TO THE SINGLE FARM PAYMENT (SFP) SCHEME

Revised February 2012



Department of
**Agriculture and
Rural Development**

www.dardni.gov.uk

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GUIDE TO THE SINGLE FARM PAYMENT (SFP) SCHEME

Single Farm Payment (SFP) Scheme.

This Guide, along with the other Guides listed on Page 5, will help you complete your single application.

Information guides are not a full statement or interpretation of the law (which only the European Court of Justice can give) and cannot replace specific advice on specific questions.

Revised February 2012

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Section 1 The Single Farm Payment (SFP) Scheme

Introduction

The Single Farm Payment (SFP) Scheme came into force on 1st January 2005. It is the main agricultural subsidy scheme in the European Union and replaced most of the individual Common Agricultural Policy (CAP) subsidy payments previously made to farmers.

To receive SFP, you must submit a Single Application Form (SAF 1) on or before 15 May each year. See 'How to Apply' below for further details.

Who is eligible to apply?

To be eligible to claim payment under the SFP Scheme, you must meet all of the following conditions:

1. Be a farmer undertaking agricultural activity and have been issued with a Category 1 Business ID (see page 32 for further information on business categories).
2. Hold SFP entitlements and have **eligible** agricultural land.
3. Ensure any individual field, or area within a field, you declare to activate SFP entitlements is at least 0.1 hectares. If you have special entitlements you can activate these without any land but you must satisfy the required level of agricultural activity we have told you about.
4. The land on which you claim payment must be at your disposal on 15 May in the year of the claim.

You will be responsible for Cross-Compliance obligations. Information on your obligations is fully explained in the Cross-Compliance guidance booklets. See Section 5 for further details.

We must apply the rules in line with European Union (EU) regulations and we cannot vary the rules to meet individual cases of hardship.

How to apply

You can apply for SFP and the other schemes under the Single Application by completing a Single Application Form (SAF1). You can complete the application by hand or online.

Application packs are issued each year, around mid-March, to those farmers who claimed SFP in the previous year. Each application pack contains a SAF1 and a Field Data Sheet (FDS) along with a guide on how to complete both these forms. It will also explain any changes to the SFP scheme from the previous year, the important points you need to take account of and return dates for applications.

The closing date for applications is usually 15 May each year. However, if the 15 May is a Saturday, Sunday or public holiday, we will accept applications on the next working day without penalty.

It is also possible that other important dates, for example, the date for amending applications (usually 31 May) or the final date for accepting late applications (usually 9 June) can change. This might be because they fall on a Saturday, Sunday or public holiday, or because the closing date for applications (15 May) has moved.

For 2012, the important dates are:

- | | |
|---------|---|
| 15 May | the closing date for submitting applications. |
| 31 May | the date for amending applications without penalty. |
| 11 June | the final date for receiving applications. |

We have set out the important dates for the 2012 scheme year in the 'Guide on how to complete your 2012 Single Application and Field Data Sheet'. You should always check these dates carefully.

A press release is also issued around the same time as the application packs. This reminds farmers that the application period has opened and advises those who do not automatically receive an application pack, to contact SFP Branch in Orchard House. An application pack will be issued on request.

Remember, it is your responsibility to activate your entitlements by submitting an application. If we do not receive an application from you we will not issue a reminder.

If you do not activate your entitlements you may lose them.

Cross-border applications

Holdings within other United Kingdom Regions

If you have land in more than one region of the United Kingdom, and you manage this land as a single farm business, this will affect the way you claim SFP payments. This is because the schemes in Scotland, Wales and England are managed differently from Northern Ireland.

If you have land in more than one region of the United Kingdom, you will have to apply to only one Paying Agency to receive payment for your entire holding. You should apply to the Paying Agency responsible for the region where most of your holding is located. Contact details can be found in Section 9 of this guide.

Land in the Republic of Ireland

It is not possible to use land that is situated in the Republic of Ireland (ROI) to activate entitlements in Northern Ireland.

Payments and modulation

Payments will commence on 1 December 2012. A payment profile setting out payment targets for that year will be published prior to that date.

Modulation is a mechanism to transfer funds from direct farm subsidies to the Northern Ireland Rural Development Programme, which includes Agri-environment and Farm Woodland Schemes. Direct farm subsidies have been modulated in the United Kingdom since 2001.

All payments you receive under SFP will be subject to modulation.

The modulation rate is the percentage reduction applied to the payments under SFP and is made up of two elements:

- 1 **Compulsory modulation** – the rate of which is fixed by the EU and applied by all Member States; and
- 2 **Voluntary modulation** – this can be used by Member States to provide additional funding for their rural development schemes.

The modulation rates can be found on Page 7 of the 'Guide on how to complete your 2012 Single Application and Field Data Sheet'.

Minimum payment

As required by EU legislation we have to set a minimum payment level. In Northern Ireland the minimum payment level prior to deductions will be €100. This means that if the total value of entitlements you claim (activate) each year is less than €100 no payment can be made. These entitlements will be regarded as not activated in the year concerned and we will have to take these from you if they were also not activated in the previous year.

For example if a farmer holds 1 entitlement worth €120.

- If the farmer only activates two thirds of that entitlement (€80), no payment will be made.
- If the farmer activates the entire entitlement worth €120 but after deductions the amount payable is reduced to €80 then a payment of €80 will be made.

You should also note that entitlements not activated in one scheme year **must** be activated in the following scheme year to avoid confiscation. If you do not activate your entitlements in line with scheme rules they will be returned to the National Reserve and you will no longer be able to claim payment on them. So, entitlements regarded as not activated in 2012 will be lost if they are not activated in 2013.

To avoid this happening you may choose to buy/lease additional entitlements to increase the total value of entitlements you activate above €100. You will also need to ensure you have sufficient land to activate these additional entitlements.

Alternatively, you may choose to sell or lease your entitlements to another farmer. See Section 3 'Payment Entitlements' for further information.

Overpayments

You will have to refund any overpayments, should you be paid more than you are entitled to receive, under the rules of any of the schemes covered by the Single Application. You must also pay us interest covering the period between the date we told you about the overpayment and the date you make the repayment. We will write to you explaining how the amount due has been calculated and how you must repay the overpayment.

Guidance booklets

There are other booklets available which provide further information about the Single Farm Payment and Cross-Compliance. Should you require a copy of any of these booklets please contact your local DARD Direct office or Orchard House.

These are:

1. Guide on how to complete your 2012 Single Application (SAF 1) and Field Data Sheet (FDS);
2. Guide to Land Eligibility (2012 Update to this Guide was included in SAF 2012 application packs).

If you submitted a Single Application in 2011, you will have been sent a copy of the 2012 Update and the Guide on how to complete your 2012 SAF and FDS in March or early April 2012.

3. Cross-Compliance Verifiable Standards Summary (revised 1 January 2012).
4. Cross-Compliance Verifiable Standards (Full Version)
(Internet only at www.dardni.gov.uk/Cross-Compliance).

Farm businesses were sent a letter in January 2012 which set out the Cross-Compliance changes.

5. Transfer of Single Farm Payment Entitlements Guidance Booklet.
6. Business Change Notification Guidance Book (includes inheritance).
7. SFP Scheme Review of Decisions Procedure.

You can also find all of the above guidance booklets at

www.dardni.gov.uk/grants-and-funding
www.dardni.gov.uk/Cross-Compliance

If you have problems understanding the scheme rules or any other issues relating to the Single Application process you should contact SFP Branch in Orchard House or your local DARD Direct office who will do their best to help you.

All contact details can be found at Section 9 of this Guide.

The Department of Agriculture and Rural Development (DARD) will take every possible step to identify and pursue all attempted fraudulent claims and pay allowances only where eligibility can be confirmed beyond reasonable doubt.

DARD Fraud Hotline Number: – FREEPHONE 0808 100 2716

Section 2 Amendments, corrections or withdrawals of application forms

To avoid any delay in payment or to avoid being penalised you should ensure you complete your application accurately. If we have already told you about a problem with your application or if we have given notice that an inspection will be carried out and this inspection then reveals an irregularity, you **cannot** withdraw or change the part of the application affected by the irregularity.

There is provision in the EU Regulations to change dates for submission of an aid application or amendment to that application when such deadlines would otherwise fall on a Saturday, Sunday or a public holiday. See Section 1, 'How to Apply', for more information. The information in this section assumes that 15 May is the closing date for applications, 31 May is the last date amendments can be made before penalties are applied and the final date for receiving applications is 9 June.

Amendments to your Single Application Form

You can make amendments to your application (**up to and including 31 May without penalty**) to increase the area you have claimed. For example, to add fields if you are using them to support a claim for SFP. You can also make changes regarding use and aid scheme **for fields already included in the application**.

If we receive your amendment, to increase the area you have claimed, between 1 June and 9 June inclusive, we will reduce your payment relating to the fields in question by 1% for each working day the amendments are late. We cannot accept such amendments after 9 June.

For example, if you have declared 20 ha of land and realise you should have declared 25 ha you can write and tell us about the error. You can add the 5ha to your application up until 31 May and no penalty will be applied. If you do this between 1 June and 9 June inclusive we will treat this as an amendment but a late application penalty will be applied to the additional 5 ha.

Obvious errors

As a general rule, an obvious error has to be detected by an administrative check of information given in your SAF.

In accordance with EU rules, we can adjust your application in cases of obvious error. Decisions on whether or not to apply obvious error depend on the overall facts and circumstances of each individual case, and we must be satisfied with the obvious nature of the error involved. We cannot consider such errors in a systematic manner but must examine each and every case individually.

We would consider the following list to be obvious errors:

- Mistakes due purely to a clerical error, which are obvious during a simple examination of the claim (such as a box not filled in or missing information);
- Incorrect statistical information;
- Mistakes found as a result of conflicting information, which is clear during a more in-depth examination (manual or computerised) of the claim, which compares information, including supporting documentation, such as maps, sent to us in the same claim;
- Mistakes in calculations;
- Anomalies involving field numbers or references which we find during cross checking of the claim with databases such as the field identification system; and
- Figures reversed (for example, farm survey number 169 instead of 196).

We will not apply penalties for obvious errors if we are satisfied that you have acted in good faith and there is no risk of fraud. You can amend obvious errors at any time but such errors do take time to resolve and can lead to substantial delays to your payment. You should make sure that you complete your application form completely and accurately and avoid errors. Not all mistakes can be described as obvious errors and may result in penalties being applied to your payment.

Notified errors

After you send us your application form you may realise that you have made a mistake. You can correct your application form at any time, as long as you let the SFP Branch in Orchard House know, **in writing, before** we tell you about an on-farm inspection and provided we have not already told you about an error in your application.

For example

- you have 10 entitlements,
- you own 10 hectares of land and you take an additional 5 hectares in conacre.

Your intention is to enter the 5 hectares of conacre land into the LFACA scheme and claim your entitlements using your owned land.

When completing your FDS you unintentionally enter two of the conacre fields for SFP. After you have sent us your application you realise that you incorrectly completed the FDS and may have duplicated land with your landlord.

You can write to us and correct your mistake provided we have not informed you of an on-farm inspection and we have not already informed you of the duplication of land.

Applications cannot be amended after 9 June to increase areas claimed. If you notify us of an error after that date, we will correct your application and you will not be penalised but **you cannot receive SFP on the adjusted area.**

Withdrawal of land

You can choose to withdraw all or part of your application for payment from any aid scheme at any time, as long as we have not told you about any mistakes in your application or told you of an inspection which subsequently reveals errors in respect of the withdrawn information. You must make your application to withdraw **writing** to the SFP Branch in Orchard House.

You are still obliged to provide us with details of all the agricultural land on your holding, even if you are not claiming for that land. If you are withdrawing a field or fields from your application for payment, you should only withdraw from the aid scheme you no longer wish to claim for. In other words, you should withdraw from columns H, I, J, or K on your FDS but not from columns A - G.

Section 3 Payment entitlements

Types of payment entitlements

1. Standard entitlements

Most applicants hold only standard entitlements.

To claim standard entitlements, you must have an equal number of eligible hectares at your disposal on 15 May in the Scheme year. This land must remain in an eligible use for the entire calendar year (1 January – 31 December), except in cases of *force majeure* or exceptional circumstances.

2. Special entitlements (an entitlement subject to special conditions)

To activate all of your special entitlements you must maintain the level of agricultural activity that we have told you about. We will check the Livestock Unit (LU) activity requirement on three dates to be specified for the scheme year concerned. We will not pay you until we have confirmed that the level of LU activity has been met for that scheme year.

Changing special entitlements to standard entitlements

If you want to convert your special entitlement(s) to standard, you must put 1 ha of additional land per special entitlement, as well as the hectares needed to activate your standard entitlements, if you have any. For example, if you have 3 standard and 2 special entitlements, and you want to convert the 2 special entitlements, you will need 5 ha of eligible land. That is, 3 ha to activate your 3 standard entitlements and 2 ha of additional eligible land to convert your 2 special entitlements.

You do not have to change all your special entitlements over at one time. Once you change over you cannot change back (in other words, standard entitlements cannot be changed back to special entitlements).

Activating your payment entitlements

You must activate your SFP entitlements (standard or special) at least once every 2 years. It is your responsibility to ensure that you claim your entitlements to avoid them being taken from you.

If you do not activate your entitlements once every two years we will, except in cases of *force majeure* or exceptional circumstances, have to take them from you and return them to the National Reserve. You will no longer be able to claim payment on these entitlements. **We will write and tell you if we are going to do this.**

If you want to maximise your SFP you should activate all of your entitlements. To do this, you must have an equal number of eligible hectares at your disposal on 15 May of the Scheme year.

As long as you claim an equal number of eligible hectares on your SAF we will activate your entitlements up to the limit you have given on your form in the following order:

1. Entitlements beginning with those with the highest unit value which you would lose if they are not activated in the current year. In other words, any entitlements which were not activated in the previous year.
2. Then we will activate other entitlements to the limit supported by your eligible land, activating first those with the highest unit value. If entitlements are of equal unit value, we will give priority to those which were not activated in the previous year.

If, you prefer to decide for yourself which entitlements you want to activate, you will need to tell us exactly which ones. To do this you must complete and return a SFP Entitlement Declaration Form. This is available from SFP Branch upon request, or downloadable from the Department's website. You should use this form to list the number and type of entitlements you want to activate and return the form along with your SAF.

For 2012, the final date for receipt of single applications and SFP Entitlement Declaration forms is Monday 11th June.

Adjustments to the gross value of SFP entitlements

The gross value of your SFP will be subject to reductions. The complete order of reductions is as follows:

- over-declaration penalty (if applicable);
- late claim penalty (if applicable);
- non-declaration penalty (if applicable);
- compulsory modulation;
- voluntary modulation;
- financial discipline and/or net ceiling deductions*;
- offset of penalties from previous years (if applicable); and
- Cross-Compliance penalty (if applicable).

*Financial discipline and/or net ceiling deductions means we would reduce your payment to make sure that the EU budget ceiling is respected.

Trading of payment entitlements

Payment entitlements were established in 2005 and no further entitlements can be established, except in very specific circumstances.

You therefore **own** the entitlements you were allocated in 2005 but you can transfer or trade (sell) your entitlements:

- by sale with land;
- by sale without land;
- by lease with leased land;
- through inheritance (actual or anticipated).

It is possible for you to get more entitlements through lease or purchase from a farmer who currently holds entitlements and who wants to lease or sell these.

If you are considering transferring or trading entitlements you should contact the Trading & Entitlement Section in Orchard House who will send you Form TE1 'Application to Transfer Single Farm Payment Entitlements' and a copy of the guidance booklet. You may also need to complete a Business Change notification form BC1.

The deadline for TE1 applications to be effective within the scheme year is 2 April. Any applications received after this deadline will become effective in the following scheme year.

You should read the Transfer of Single Farm Payment Entitlements guidance booklet. If you have any problems understanding the trading rules, Trading & Entitlement Section will do their best to help you.

Changes to trading of special entitlements from 1 January 2012

Special entitlements will lose their special status when all or some of the special entitlements are transferred from 1 January 2012. The entitlements will convert to standard and 1 ha of eligible land will be required to activate each entitlement from the 2012 SFP Scheme year.

The only exception to this is where special entitlements are transferred by actual or anticipated inheritance.

Section 4 Land and the Single Farm Payment

Land at your disposal

The land on which you are claiming SFP must be at your disposal on 15 May of the Scheme year. You will probably know which land is at your disposal because you own and farm the land and take full responsibility for managing the land. **However, you should sort out all issues to do with whether the land is at your disposal before you make a claim.** If you do not and we find that the land was not at your disposal, this will mean that you have over-declared and you may be penalised.

Landowners and tenants should agree the precise terms of land letting arrangements and who has the right to claim payment of aid on individual fields **before they submit an application form.** It will not be possible for more than one farm business to claim payment under the same scheme for the same field.

In circumstances where the landowner is claiming SFP and has let the land in conacre, it is possible for the tenant to claim LFACA on that land, providing each claimant ensures that they meet the full requirements of the respective schemes to which they are applying. A failure to meet these requirements may result in penalties being applied. **It is in your interests to have any agreement documented should a dispute arise.**

If the landowner has leased the land to another farm business, we consider it is unlikely that the landowner can retain sufficient control of the land to claim SFP on that land. **In such cases we would advise that only the tenant should claim SFP.** You are recommended to seek legal advice regarding leases. In particular if the landowner is intending to claim SFP on land leased to another farmer, legal advice should be sought as to whether the terms of the lease would enable the landowner to satisfy the SFP eligibility conditions regarding this land.

Duplicate fields

Following a judicial review, it was agreed that the Department would make it clear to applicants that, where fields have been duplicated, **we will require substantive and clear proof of who has the right to claim.**

It is important that Landowners and Tenants agree the precise terms of land letting arrangements and who has the right to claim payment on individual fields before they submit an application form.

It would be to your advantage to have any agreement made in writing.

If you are leasing land or taking land in conacre you should

- Check if the landowner is claiming SFP on this land.
- Check if the landowner allows you to use the land to claim SFP.
- Make sure you get the most up to date map from the landowner.
- Make sure that the previous tenant is not claiming SFP on this land.

If you are taking land in conacre but, for whatever reason, you are not claiming for that land, you still need to include it at Columns A – G of your FDS.

If you are no longer taking land in conacre you should remove this from your FDS.

Land eligible for SFP**You must only claim on land which is eligible for SFP.**

Detailed information on land issues can be found in the 'Guide to Land Eligibility' and the 2012 Update to this guide.

The guides cover which land is eligible and not eligible for SFP and all the other schemes listed on the single application. You are advised to read these, along with the other information guides, before completing your single application.

You must deduct any ineligible areas greater than 0.01 ha from the total area of the field and only claim for the eligible area. Furthermore, ineligible areas which are smaller than 0.01ha but which add up to more than 0.01 ha within a field must also be deducted.

If we find that you have claimed land that is not eligible, we will treat this as over-declaration and apply penalties as appropriate.

If we find that you deliberately claim on land that is clearly not eligible we may apply an intentional over-declaration penalty. This could result in loss of all payment for one year or, in more severe cases, in the following three years as well.

Section 5 Cross-Compliance

What is Cross-Compliance?

In return for payments under

- Single Farm Payment (SFP) Scheme
- Less Favoured Area Compensatory Allowances (LFACA) Scheme
- Organic Farming Scheme (OFS)
- NI Countryside Management Scheme (NICMS)
- Woodland Grant Scheme (agreements signed after 1/1/07)
- Farm Woodland Premium Scheme (agreements signed after 1/1/07)
- Sustainable Forest Operation Grant Scheme (agreements signed after 1/1/07)

you must maintain your land in Good Agricultural and Environmental Condition (GAEC) and comply with a number of specific legal requirements known as Statutory Management Requirements (SMRs). **This is known as Cross-Compliance.** We will carry out inspections to verify that all these requirements (as relevant to your business) are being met.

Cross-Compliance Responsibilities

All land within an agricultural business (irrespective of whether it is used to activate entitlements or claim payment under another aid scheme) must be maintained in accordance with the Cross-Compliance Statutory Management Requirements (SMRs) and must be kept in good agricultural and environmental condition (GAEC).

Although land used to activate entitlements needs only to be at your disposal on 15 May of the year of the claim, you must meet the Cross-Compliance rules for the whole calendar year. This applies even if you do not occupy the land for the whole year.

There is one exception to this rule which is when land is transferred from or to someone who has also submitted an application in that calendar year.

Example 1

You take on some agricultural land on 10 April 2012.

You declare this transferred land as part of your holding on your 2012 SAF. If the transferor (the person you took the land from) does not submit a 2012 SAF for the rest of their agricultural land, you will be liable for Cross- Compliance on the transferred land for the whole of the calendar year, including the period between 1 January 2012 and 9 April 2012 when you did not occupy the land.

If the transferor submits a 2012 SAF for the rest of their agricultural land, they will be liable for Cross-Compliance on the transferred land from 1 January 2012 until 9 April 2012. You will be liable for Cross-Compliance on the transferred land from 10 April 2012 for the remainder of the calendar year.

Example 2

You transfer some agricultural land on 14 July 2012 to another farm business

This land was declared on your 2012 SAF. The transferee (the person you transferred the land to) has not submitted a 2012 SAF. You will be liable for Cross-Compliance on the transferred land for the whole of the calendar year, including the period between 14 July 2012 and 31 December 2012 when you are not occupying the land.

If the transferee has submitted a 2012 SAF for the rest of their agricultural land, they will be liable for Cross-Compliance on the transferred land from 14 July 2012 until 31 December 2012. You will be liable for Cross-Compliance on the land up to the date of transfer that is, from 1 January 2012 until 13 July 2012.

You should carefully consider the terms of any contractual arrangements between you and the transferor or transferee if you are transferring land (either in or out) during the year. This is so you can make sure that your interests are protected and you can produce documentary evidence regarding responsibility for the land if either a Cross-Compliance breach occurs or access to inspectors is prevented before or after the land transfer. Similarly, you should bear in mind the risks of not having contractual arrangements agreed and in place.

In the case of livestock, the keeper of the animals is responsible for ensuring compliance with the animal related Cross-Compliance requirements. Further information on Cross-Compliance (including GAEC) can be found in the booklets:

1. Cross-Compliance Verifiable Standards Summary (revised 1 January 2012)
2. Cross-Compliance Verifiable Standards (Full Version)

Both of these booklets are available on the DARD website at:
www.dardni.gov.uk/Cross-Compliance

Reductions relating to breach of Cross-Compliance requirements

We may reduce your payment if you, or someone acting on your behalf, fail to comply with any of the Cross-Compliance requirements relevant to your business. You are responsible for your employees or persons who undertake tasks for you, as well as for agents and those who could be said to be acting on your behalf.

You should also note that if you do not comply with certain Cross-Compliance requirements relating to the Statutory Management Requirements (SMR's), this may be a criminal offence and, as such, would carry a criminal sanction. A failure to comply with the requirements of the relevant legislation could, therefore, result in you being prosecuted in addition to the payment reductions and exclusions detailed below.

Negligent (Unintentional) Breaches

If you act negligently and fail to comply with a Cross-Compliance requirement, payments due under the schemes listed at the beginning of Section 5 will generally be reduced by 3% for each non-compliance. However, this reduction can be reduced to 1% or increased to 5%, depending on the seriousness of the breach. The seriousness of the breach will depend on the assessment of the severity, the extent and permanence of the breach identified. For very minor technical breaches we may issue a warning letter.

Example

We find a breach of a GAEC requirement. We judge that the breach is medium severity, caused by negligence, rectifiable and the effect is confined on-farm. The penalty for this breach would be a 3% reduction in your payments under the schemes you have claimed for the scheme year concerned.

More than one negligent breach in the same Cross-Compliance area identified

If you commit more than one breach in the same SMR category (that is, either the environmental regulations, the public, animal and plant health regulations or the animal welfare regulations) or GAEC requirements, then we will treat this as one non-compliance.

Example

We find that you have negligently breached the following 3 GAEC requirements:

1) Soil Management Requirements

Has land been severely trampled or poached? – Penalty 3%.

2) Supplementary Feeding Sites

Is there evidence of Sacrifice areas/paddocks (other than those permitted)?
– Penalty 1%.

3) Field Boundaries

Is there evidence of field boundary removal without prior DARD approval?
– Penalty 1%.

Because the three breaches are negligent breaches, and fall within the same Cross-Compliance Area (GAEC Cross-Compliance area), we will treat them as one breach and will apply the highest penalty in respect of the non-compliances identified, that is, a 3% reduction in your payments under the schemes you have claimed, for the scheme year concerned.

Repeat breach of the same specific Cross-Compliance requirement due to negligence

If you repeat a breach of the same specific requirement within three calendar years the penalty to be applied will be multiplied by a factor of three. However, if you repeat the same breach again within three calendar years of the first repeat breach, the reduction applied in respect of the first repeat breach will be increased by a factor of three up to a maximum of 15%. Once the reduction reaches 15%, if you fail to comply with the same requirement, we will treat you as having intentionally failed to comply.

Example

In 2010, we found that you negligently breached the following GAEC requirement:

1) Soil Management Requirements

Has land been severely trampled or poached? – Penalty 3%.

During 2012, we inspect you again and identify another negligent breach of the same specific requirement which because of its severity would attract a penalty of 1%.

Because this is a repeat breach we must multiply the penalty level due in respect of the repeated non-compliance by 3, that is, $1\% \times 3 = 3\%$ reduction in your 2012 payments under the schemes you have claimed for.

As a follow on from the above example, in 2013 we find that you have again negligently breached the same specific requirement. As this constitutes a second repeat breach we must multiply the previous penalty by 3, that is, $3\% \times 3 = 9\%$ reduction in your 2013 payments under the schemes you have claimed for.

Negligent breaches identified under different Cross-Compliance areas

Where we determine more than one negligent non-compliance with regard to the different SMR categories or GAEC, we will apply a penalty in each case of non-compliance. These penalties shall be added together. However, the maximum reduction in any scheme year shall not exceed 5%.

Example

We find that you have negligently breached the following Cross-Compliance requirements:

1) Soil Management Requirements

Has land been severely trampled or poached? – Penalty 3%.

2) SMR 2 Habitats

Is there evidence of destruction, cutting or uprooting of protected plant species? – Penalty 1%.

Because the two breaches fall into different Cross-Compliance areas (GAEC and environmental regulations), the associated penalties will be added together to give the overall penalty to be deducted, that is, $3\% + 1\% = 4\%$ reduction in your payments under the schemes you have claimed, for the scheme year concerned.

Intentional Breaches

Depending on the circumstances surrounding a particular breach we may decide to class your first breach of a Cross-Compliance standard as intentional. In cases of intentional non-compliance, penalties can range from 15% to 100%. It is important to note that while we may deem a breach in the first instance to be negligent, we could, if we identify the breach again, consider that it has been caused intentionally and apply a higher penalty.

Example

We find a breach of the GAEC requirement - Has the land been severely poached? We judge that the breach is medium severity, is intentional, is rectifiable and the effect is confined on-farm. The penalty for this breach would be a 30% reduction in your payments under the schemes you have claimed, for the scheme year concerned.

More than one intentional breach in the same Cross-Compliance area

If you commit more than one intentional breach in the same SMR category (that is either, the environmental regulations, the public, animal and plant health regulations or the animal welfare regulations) or GAEC we will treat them as one non-compliance.

Example

We find that you have intentionally breached the following GAEC requirements:

1) Soil Management Requirements

Has land been severely trampled or poached? – Penalty 20%.

2) Supplementary Feeding Sites

Is there evidence of Sacrifice areas/paddocks (other than those permitted)? – Penalty 20%.

3) Field Boundaries

Is there evidence of field boundary removal without prior DARD approval? – Penalty 30%.

Because the three breaches are all intentional breaches and fall within the GAEC Cross-Compliance area, we will treat them as one breach and we will apply the highest penalty in respect of the non-compliances identified, that is, a 30% reduction in your payments under the schemes you have claimed for, for the scheme year concerned.

Intentional breaches identified under different Cross-Compliance areas

Where we determine more than one intentional non-compliance, with regard to the different SMR categories or GAEC, we will apply a penalty in each case of non-compliance. These penalties shall be added together.

Example

We find that you have intentionally breached the following Cross-Compliance requirements:

1) Soil Management Requirements

Has land been severely trampled or poached? – Penalty 30%.

2) SMR 2 Habitats

Is there evidence of destruction, cutting or uprooting of protected plant species? – Penalty 30%.

Because the two breaches fall into different Cross-Compliance areas (GAEC and environmental regulations), the associated penalties will be added together to give the overall penalty to be deducted, that is, 30% + 30% = 60% reduction in your payments under the schemes you have claimed, for the scheme year concerned.

The above rules governing the size of penalties to be applied for both negligent and intentional breaches have been incorporated into UK wide penalty frameworks.

The examples provided are designed to give you an indication for how the penalty system will be operated. You can find more information on this topic on our web-site at www.dardni.gov.uk/Cross-Compliance

Cross-Compliance, *force majeure* and exceptional circumstances

In limited circumstances, we may accept that you are prevented from meeting the Cross-Compliance requirements due to *force majeure* or exceptional circumstances. In such cases, reductions and exclusions may not have to be applied. *Force majeure* is defined as 'unusual circumstances, outside your control, the consequences of which, in spite of all due care, could not be avoided except at the cost of excessive sacrifice on your part.' All cases will be judged on their own merit.

For further information on force majeure and exceptional circumstances and how to apply, please refer to the 'Guide on How to complete your 2012 Single Application Form and Farm Data Sheet'.

Section 6 Inspections and penalties

On-farm inspections

By submitting a Single Application, you agree to permit the Department to carry out on-farm inspections with or without prior notice at any reasonable time. It is not necessary for you to walk the fields with the inspector. However, you should arrange to be present at the end of the inspection to discuss the findings and sign off the inspection report. If you are unavailable, you should nominate a representative in your place to sign the report in your absence. No payment will be made if you, or others acting on your behalf, prevent an on-farm inspection from being carried out.

We will make use of satellite and aerial photographs (ortho-imagery) as part of our inspection process. This helps us identify ineligible features such as buildings, laneways and other land that is not eligible to be claimed for SFP.

Every inspection will be the subject of a report. At the end of the field inspection, you will be given a verbal update of the inspection findings. The inspector will ask you to sign to confirm that an inspection has taken place, and that you have been made aware of the preliminary findings. Where irregularities are found, you will later be sent a paper copy of the inspection report and at that time you will be given the opportunity to make comments on the inspection findings.

We must carry out on-the-spot checks on approximately 5% of applicants to check eligibility for SFP. This will involve around 1,900 applicants out of some 38,000 applications. In accordance with EU requirements, up to 1.25% of businesses are selected randomly. The remaining 3.75% of businesses are selected using risk based factors such as the length of time since their last inspection, results of previous inspections and changes in areas from previous years claim..

Approximately 1% of applicants will also be selected for verification of the Cross-Compliance standards that come under the responsibility of each of the authorities designated to undertake Cross-Compliance inspections.

Provided the purpose of the inspection is not jeopardised, we may give advance notice of our intention to undertake an inspection. For land related inspections this announcement may be up to 14 days in advance of the proposed inspection. For inspections involving livestock advance notice will not exceed 48 hours.

It is not possible for an inspector to advise of the effect on your claim of ineligible areas or non-compliances detected at inspection. If penalties are to be applied to your claim, you will be notified by SFP Branch at a later date.

Penalties

We will check all application forms to ensure they have been completed correctly and that the eligibility rules of the schemes are being met. If you do not meet the rules, or we find an inaccuracy we will apply reductions and exclusions (that is penalties) according to the scheme rules. Under the EU Regulations, we do not have discretion to waive penalties.

In limited circumstances, we may accept that you did not meet the requirements of the Single Application scheme because of events outside of your control; this is known as *force majeure* or exceptional circumstances. Where this is the case, we will not normally apply penalties.

A false declaration made deliberately or recklessly may also lead to criminal prosecution.

There is provision in the EU Regulations to change dates for submission of an aid application or amendment to that application when such deadlines would otherwise fall on a Saturday, Sunday or a public holiday (see Section 1, 'How to apply' for more information).

For 2012, Tuesday 15th May is the closing date for single applications, Thursday 31st May is the last date amendments can be made before penalties are applied and the final date for receiving applications is Monday 11th June.

The following examples explain the circumstances when you may be penalised. These include:

Penalties for late applications (received after 15 May)

If we receive your application on or between 16 May and 11 June 2012, we will reduce your payment **under all the schemes you have claimed, by 1% per working day**, except in cases of *force majeure* or exceptional circumstances. No applications will be accepted after 11 June.

For example:

If we receive your application on 22 May 2012 (that is five working days late, 16th, 17th, 18th 21st and 22nd of May), you will lose 5% of the value of aid for each scheme claimed in 2012.

Penalties for amendments to your applications (between 1 June and 11 June inclusive)

Applications already received by us may be amended to increase the area you have claimed but you will be penalised on the amended fields. We will reduce your **payment under all the schemes you have claimed, by 1% per working day between 1 June and 11 June**. No amendments will be accepted after 11 June.

For example:

On 7 June 2012 you add 2 additional fields on your FDS which will allow you to activate 2 more SFP entitlements. However, because Monday 4th and Tuesday 5th June 2012 are Bank Holidays, no reduction is applied on those days.

You will, however, lose 3% of the payment due in respect of the value of the added land for the aid schemes the land is used to support. This will be for Friday 1st, Wednesday 6th and Thursday 7th June 2012.

Important: If you have already been notified of an error in your SAF, or notified of an inspection which subsequently reveals errors, you cannot rectify the error or amend details of the area of land concerned.

Non-declaration of land

Penalties will apply to your SFP if you fail to declare all the agricultural land on your holding.

You must declare all the agricultural land you have on 15 May in the scheme year on your Single Application FDS, including forestry and common land even though you are not using some of the land for claim.

If there is a difference between the total area you declare and the total agricultural land that you should have declared, we will reduce your SFP payment as follows:

Difference	Reduction
Up to 3% or 2ha	No reduction in payment
More than 3% and not exceeding 20%	1% reduction
More than 20% and not exceeding 50%	2% reduction
More than 50%	3% reduction

For example:

You hold 100 SFP entitlements.

You declare 100ha on your SAF.

We find 125ha. Therefore, under-declaration is 25% ($25/100 \times 100$).

We will reduce your SFP payment by **2%**. All your entitlements have been activated for the SFP scheme year.

Over-declaration of land

Circumstances where we may apply over-declaration penalties are:

- If you declare more land on your holding than we find at inspection or as a result of administrative checks;
- If you claim ineligible land for SFP, for example, claiming ineligible patches of scrub or NICMS codes which are not compatible with SFP such as WAE;
- If you duplicate fields with another farm business. Two or more farm businesses cannot claim payment on the same area of land under the same scheme;
- If you declare land to activate entitlements which has not been at your disposal on 15 May, for example, land for which you did not have permission from the owner to claim subsidy; and
- If you claim for land that you have leased to another farm business, for example you claim SFP on land you have leased to another farmer who is claiming NICMS.

For SFP, if we find a difference between the number of SFP payment entitlements you hold and the number of eligible hectares you declared on your SAF, we will calculate your SFP payment on the lower number.

These rules will apply in cases where the number of hectares of eligible land found is less than the number of hectares declared as part of the SAF, or for SFP, the number of payment entitlements held.

Whether penalties are appropriate depends on a comparison between the number of hectares of eligible land declared, the number of hectares found, and for SFP, the number of entitlements held.

You will not be penalised if:

- You declare more eligible land than you need to activate all the entitlements you are claiming and we find the area is equal to or more than the number of payment entitlements you are activating.

For example:

Number of entitlements held = 10

Number of eligible hectares declared = 15

Number of hectares found = 12

- You will be paid on all 10 entitlements because you have sufficient hectares available to support your claim.

It is important to remember that where there is an over-declaration penalty, and the SFP entitlements are of different unit values, payment and penalties will be calculated on the average value of the entitlements in relation to the area declared and the area found.

We will decide whether there has been an over-declaration, that is, where the area declared on your application for SFP is greater than the area actually found (the determined area).

The penalties to be applied are:

Difference	Reduction
Up to 3% or 2ha	Area reduction only to ensure correct payment.
More than 3% or 2ha, but not more than 20%	The area will be reduced by twice the area difference found (area over-declared x 2)
More than 20% but not more than 50%	No SFP payment will be made in the current scheme year.
More than 50%	No SFP payment will be made in the current scheme year. In addition, a sum equal to the amount which corresponds to the difference between the area declared and the area determined will be off-set against all schemes you have claimed under the Single Application in the following 3 years. If the amount cannot be fully off-set the balance should be cancelled.

The following examples may help to illustrate how the penalty reductions work.

Example 1 - Up to 3% or 2ha.

You have declared 100 ha on your application.

You hold 100 SFP entitlements	50 @ €150 each	€7,500
	50 @ €100 each	€5,000
Total value of your SFP entitlements		€12,500

Average value of your entitlements $€12,500/100 = €125$

We find 98.5 ha, meaning you have over-declared by 1.5ha or 1.52%.

Result:

1. As the difference over- declared is less than 3% or 2ha, we will not apply a penalty.
2. We will activate (pay) 98.5 entitlements.
3. Payment will be €12,312.50 (98.5 x €125).
4. 1.5 entitlements are considered NOT activated.

Example 2 - More than 3% or 2 ha but not more than 20%

You have declared 55ha on your application.

You hold 60 SFP entitlements	50 @ €150 each	€7,500
	10 @ €100 each	€1,000
Total value of your SFP entitlements		€8,500

Average value of your entitlements $(50 \times 150) + (5 \times 100) = €8,000$

€8,000 divided by 45 = €145.45

We find 50ha, meaning you have over-declared by 5ha or 10%.

Result:

1. In this case we will reduce the area found by 10ha (2 x 5ha) 50ha – 10ha = 40ha.
2. We will activate 50 entitlements but you will only be paid on 40 entitlements at an average value of €145.45 (€5818).
3. 5 entitlements are considered NOT activated.

Example 3 - More than 50%

You declare 90ha on your application.

You hold 100 entitlements	50 standard at €100	€5,000
	50 standard at €50	€2,500
Total value of your SFP entitlements		€7,500

The average value of your entitlements is $(50 \times 100) + (40 \times 50) = €2,000$
€2,000 divided by 90 = €77.78.

We find 35ha, meaning you have over declared 55ha or 157%.

The farm business has over declared SFP by more than 50%. The entitlements are of different values.

Result:

1. You will not receive SFP payment for the current scheme year.
2. In addition, we will recover the amount over-declared (55ha) x average value of the SFP entitlements over the next 3 years.
3. 35 entitlements will be considered activated.
4. 55 entitlements are not considered activated.

Intentional over-declaration

If we find you deliberately claim on land that is clearly ineligible for the scheme you have applied for, we may apply an intentional penalty. This could result in loss of all payment for one year, or in more severe cases, up to 3 years.

The penalties to be applied are:

Difference	Reduction
Intentional over-declaration of more than 0.5% and up to 20% or up to 1ha	No SFP payment will be made in the current scheme year.
Intentional over-declaration of more than 1ha or over 20%	No SFP payment will be made in the current scheme year. In addition, a sum equal to the amount which corresponds to the difference between the area declared and the area determined will be off-set against all schemes you have claimed under the Single Application in the following 3 years. If the amount cannot be fully off-set the balance should be cancelled.

For example, if following an inspection, we reduce the area of a field because of ineligible features, you should claim on the revised lower area the following year - unless any ineligible areas have been removed from your field. If we find you have claimed on the original higher area without good reason for doing so, we will consider you have deliberately claimed on ineligible land and will apply intentional penalties as appropriate.

An intentional over-declaration may also lead to criminal prosecution.

It is therefore in your interest to make sure your claim is accurate and that you do not claim on any land that is not eligible.

Note: You should also read Reductions relating to Breach of Cross-Compliance Requirements in Section 5.

Business registration - application for DARD Business Identifier (Form FB1)

We cannot pay you unless you are registered with us as a farm business and have a business identification number (Business ID). If you have not done so, you should contact your local DARD Direct Office **immediately** to get advice and Form FB1 (Application for DARD Business Identifier). This form must be received by us, where possible, before and no later than the date you submit your application form (SAF1). We should receive your SAF1 by 15 May in any given scheme year (or penalties may apply and your payment reduced).

Please note that SFP Entitlements for existing businesses were established in 2005 and **no further entitlements may be established except in very specific circumstances**. If you register as a new farm business this does not mean that we will award SFP Entitlements. You will have to obtain payment entitlements by transfer. You will need to read the Transfer of Single Farm Payment Entitlements Guidance booklet. You can get a copy of the booklet from Trading & Entitlement Section, SFP Branch in Orchard House.

Separately managed businesses

You can send in separate SAF's for different farms in which you are involved **only** if you manage them as separate businesses according to certain conditions. It is your responsibility to demonstrate that the businesses are separate. In deciding whether they are separate, we may need to seek further information from you.

The Department reserves the right to refuse or revoke a Business ID where we consider that two or more businesses are not separate.

Business categories

We have three categories of Business ID:

Category 1: Farm businesses. Subject to meeting scheme conditions, a category 1 ID enables the holder to have Single Payment Entitlements, receive Single Payment, receive LFACA, participate in Agri-environment schemes and apply under measures in the Rural Development Programme. To register animals beyond category 3 levels it is necessary to have a category 1 ID.

Category 2: For projects applying for rural development funding measures, other than those measures where there is a category 1 ID requirement. If the applicant already holds a category 1 ID, a separate category 2 ID will not be provided

Category 3: Previously, those who wished to register a small number of animals were given a provisional Business ID. These will now be known as category 3 ID's.

If you are an existing farm business your ID will not change and there is no need for you to take any action. If you wish to seek funding under any of the schemes on the SAF1, you must have a category 1 ID.

Changes to your business structure

Minor Business Changes

These are changes to e-mail addresses, phone contact details or correction of spelling errors. **It does not include a change of address.** You can make these changes at any time either by telephoning or writing to the Business Change Section, SFP Branch in Orchard House or your local DARD Direct office.

Other Business Changes

If any changes, other than the minor changes listed above, have taken place you must contact the Business Change Section, SFP Branch, Orchard House or your local DARD Direct office for the necessary form which you should complete and return to Orchard House or your local DARD Direct office immediately.

1. **Form BC1** - to notify us of a change to the membership of a business (including trading title and change of address). See 'Business Change Notification' guidance booklet for further information.
2. **Form TE1** - to notify us of a transfer of entitlements within the business, including transfers as a result of a merger or scission/split in a farm business. See 'Transfer of Single Farm Payment Entitlements' guidance booklet for further information.

What to do if a member of the business dies.

If a member of a business dies (either a sole trader or a member of a multi-member business) it is important that the personal representatives of the business contact us in writing as soon as possible.

In the case of multi-member businesses, we will continue to deal with the remaining members and it is for the executors and remaining members to agree on the management of the business.

If you do not notify us of the death of a business member we will not be able to transfer entitlements to the beneficiaries of the estate and any payment that may relate to the entitlements held by the deceased may not be paid.

Beneficiaries must be a registered business with us and must hold any inherited entitlements on the 15 May of the given scheme year in order to claim SFP. **If this business is not in place by 15 May you should arrange to have the application form completed by whoever is acting on behalf of the deceased.**

Advice on how to deal with inheritance of entitlements is contained within the Trading of Entitlements Guidance booklet and Business Change Notification Guidance booklet. If you have any questions in relation to the inheritance of entitlements and how to notify us of a death, you should contact the Business Change Section, SFP Branch in Orchard House on 0300 200 7848.

EU Legislation

You can find the relevant EC Regulations on the European Union website at www.eur-lex.europa.eu/en/index.htm

Council Regulation 73/2009 (as amended) establishing common rules for direct support schemes for farmers under the common agricultural policy.

Commission Regulation 1120/2009 laying down the detailed rules for the implementation of 73/2009.

Commission Regulation 1122/2009 laying down the detailed rules for the implementation of Cross-Compliance, modulation and the integrated administrative and control system provided for in Council Regulation 73/2009.

Definitions

- The EU means the European Union.
- The Department means the Department of Agriculture and Rural Development.
- Single Application means the application for direct payments in respect of the Single Payment Scheme (SFP) and other area-related aid schemes.
- Other area-related aid scheme means the Less Favoured Area Compensatory Allowances Scheme (LFACA), NI Countryside Management Scheme (NICMS) and Organic Farming Scheme (OFS).
- Farmer means an individual or a group of legal or natural persons (including legally constituted bodies such as a Partnership, Company or Trust) that undertakes an agricultural activity on a holding.
- Agricultural activity means producing, growing or rearing agricultural products, including harvesting crops or keeping animals for milking, breeding or other farming purposes or, as a minimum, maintaining the land in good agricultural and environmental condition (GAEC).
- Holding means all the production units managed by a farmer within the territory of the same Member State.

Useful Contacts

If you need any help or advice in relation to your application please contact SFP Branch (or LFACA Section as appropriate) in Orchard House or your local DARD Direct Office. The addresses and telephone numbers are shown below.

Single Farm Payment Branch

Orchard House

40 Foyle Street

Derry/Londonderry

BT48 6AT

LFACA Section

Orchard House

40 Foyle Street

Derry/Londonderry

BT48 6AT

Fax: (028) 7131 9800

Or

DARD Grants and Funding: 0300 200 7848

Single Farm Payment (SFP), land eligibility, LFACA, farm, fisheries, forestry and rural development payments and grants, pre 2005 schemes.

Website Address: www.dardni.gov.uk/grants-and-funding

E-mail Address: gspd.sfps@dardni.gov.uk

DARD Helpline: Tel: 0300 200 7852

or e-mail dardhelpline@dardni.gov.uk

Local DARD Direct Offices

ARMAGH

2 Newry Road
Corporation
Armagh
BT60 1EN

BALLYMENA

Kilpatrick House
38-54 High Street
Townparks
Ballymena
BT43 6DP

COLERAINE

Crown Buildings
Artillery Road
Millburn
Coleraine
BT52 2AJ

DOWNPATRICK

Rathkeltair House
Market Street
Demesne of Down Acre
Downpatrick
BT30 6LZ

DUNGANNON

Crown Buildings
36 Thomas Street
Drumcoo
Dungannon
BT70 1HR

ENNISKILLEN

Inishkeen House
Killyhevlin
Enniskillen
BT74 4EJ

NEWRY

Glenree House
Unit 2 Springhill Road
Carnbane Industrial Estate
Carnbane
Newry
BT25 6EF

MAGHERAFELT

Units 36-38
Meadowlane Shopping Centre
Moneymore Road
Town Parks of Magherafelt
Magherafelt
BT45 5PR

MALLUSK

Castleton House
15 Trench Road
Mallusk
Newtownabbey
BT36 4TY

NEWTOWNARDS

2B Portaferry Road
Commons
Newtownards
BT23 8NN

OMAGH

Sperrin House
Sedan Avenue
Lisnamallard
Omagh
BT79 7AQ

GB Paying Agencies

Rural Payment Agency for England
Reading HQ, Kings House, 33 Kings Road, Reading, RG1 3BU

Tel: 0118 958 3626 **Fax:** 0118 959 7736

Scottish Government, Rural Payments and Inspection Directorate
SFP & Support Schemes Section
Room 220, Pentland House, 47 Robb's Loan, EDINBURGH, EH14 1TY

Tel: 0131 244 4488 **Email:** SFPMailbox@scotland.gsi.gov.uk

Welsh Assembly Government, Department for Rural Affairs
Rural Payments Division, Ffynnon Las, Ty Glas Avenue, Llanishen, Cardiff, CF14 5EZ

Tel: 029 2075 2222 **Fax:** 029 2068 1381

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AN ROINN

**Talmhaíochta agus
Forbartha Tuaithe**

MÄNNYSTRIE O

**Fairms an
Kintra Fordèrin**

DMS 11.12.238