

Single Payment Scheme

Information for farmers and growers
in England

January 2009 update



Contents

| | |
|--|----|
| A. Introduction | 2 |
| B. Key dates for the Single Payment Scheme | 3 |
| C. Policy changes for SPS 2009 scheme year | 4 |
| C1 Permanent crops become eligible – including permanent fruit and vegetables, nursery crops and vines | 4 |
| C2 End of Set-aside entitlements | 5 |
| C3 End of National Reserve entitlements | 6 |
| C4 Entitlement transfers (changes to status of transferor and 80% usage rule) | 7 |
| C5 Short rotation coppice | 7 |
| C6 Aid for Energy Crops | 7 |
| C7 Land in agri-environment and forestry schemes | 7 |
| C8 Non-agricultural activities | 7 |
| C9 Payments | 8 |
| C10 Modulation rates | 8 |
| C11 Modulation refund payments | 8 |
| D. Policy changes for SPS 2010 scheme year and later years | 9 |
| D1 New entitlements for permanent fruit and vegetables, nursery crops and vines | 9 |
| D2 Minimum claim size | 9 |
| D3 Who can apply? | 9 |
| D4 Usage rule | 10 |
| D5 Special entitlements | 10 |
| D6 Entitlement corrections | 10 |
| D7 National envelope | 10 |
| D8 Area Payment for Nuts and Protein Crop Premium | 11 |
| D9 Decoupling of processing aids | 11 |
| E. RPA administration of the Single Payment Scheme (SPS) | 12 |
| E1 Single Business Identifier (SBI) barcode labels | 12 |
| E2 Electronic applications | 12 |
| E3 Reminder on single business assessments | 12 |
| E4 Transfers of SPS entitlements | 13 |
| E5 New Common Agricultural Policy (CAP) payments website goes live | 14 |
| E6 BACS payments | 14 |
| E7 Aid For Energy Crops 2008 reminder | 15 |
| F. Cross compliance changes | 16 |
| F1 2009 | 16 |
| F2 2010 | 16 |
| F3 2012 (at latest) | 16 |
| F4 Cross compliance reductions | 17 |
| G. Uplands Entry Level Stewardship/Hill Farm Allowance 2010 | 18 |
| H. Further information | 19 |

A. Introduction

We have produced this guidance as part of our commitment to provide farmers and growers in England with the latest information, as it becomes available, on the Single Payment Scheme (SPS) and related schemes. It includes important information on the latest policy changes and provides updates on the administration of the scheme.

The November European Union (EU) Agriculture Council agreed on the EU Common Agricultural Policy (CAP) Health Check; a scheduled review of the CAP. This led to some changes to SPS and other direct aid schemes (Area Payments for Nuts, Aid for Energy Crops and Protein Crop Premium). Some of these changes will apply to for SPS 2009 scheme year and some for later years.

The new legislation is expected to come into effect in early 2009, with further rules being agreed later in the year. The information in this update gives our current understanding of the position, though this could change after further decisions and clarification from the EU. We will publish any significant updates on the RPA website (www.rpa.gov.uk) as they happen. All changes affecting the SPS 2009 scheme year, as we then understand them, will also be included in the *Single Payment Scheme Handbook and Guidance for England 2009 (incorporating Area Payment for Nuts, Aid for Energy Crops, Protein Crop Premium and 2010 Hill Farm Allowance)*, referred to in this update as the SPS 2009 handbook, which will be published in February 2009.

Growers of some permanent crops such as permanent fruit and vegetables, nursery crops and vines will be eligible for an allocation of new entitlements. Section D1 gives more information on what requirements you need to meet and what you need to do to apply for these new entitlements.

Section G gives an update on the recently announced plans to replace the Hill Farm Allowance (HFA) with an Uplands Entry Level Stewardship Scheme (UELS) in 2010. This includes extending HFA for a further year into 2010, and introducing an uplands transitional payment if you are not eligible to enter UELS because of existing ESA and CSS commitments. It explains what you need to do to claim in 2009 for HFA 2010, and that you need to successfully claim HFA 2010 to be eligible for the uplands transitional payment.

B. Key dates for the Single Payment Scheme

| Date | Activity |
|---|---|
| As soon as possible If you have not registered by 26 February 2009, you may not get what you may be entitled to. | Register with our Customer Service Centre (CSC) for new entitlements (for permanent fruit and vegetables, nursery crops and vines) |
| 2 April 2009 (midnight) | Deadline for RPA to receive notice of an entitlement transfer for the farmer receiving the entitlements to claim against them for SPS 2009 scheme. |
| 15 May 2009 (midnight) | Application deadline for SPS 2009 applications |
| Mid June 2009 | Application form (SP20) distributed for establishing new entitlements (for permanent fruit and vegetables, nursery crops and vines). |
| 13 August 2009 (midnight) | Application deadline for new entitlements (for permanent fruit and vegetables, nursery crops and vines) |

C. Policy changes for SPS 2009 scheme year

C1 Permanent crops become eligible – including permanent fruit and vegetables, nursery crops and vines

Land under all permanent crops (shown in points i to iv below) is eligible for SPS from the SPS 2009 scheme year. This includes permanent fruit and vegetables (including commercial orchards), nursery crops and vines (which, as described in section D1, you can use to apply for new entitlements for 2010). It also includes other permanent crops (shown in point iv below), which you cannot use to apply for new entitlements.

You will be able to claim on this land during the SPS 2009 scheme year using any existing entitlements or any entitlements you bought or leased, and which form part of your entitlement holding on 15 May 2009. The deadline to transfer entitlements (allowing for the 6 week notification period) is 2 April 2009.

If new eligible land is not registered on the Rural Land Register (RLR) you should use the *Rural Land and Entitlements* form (RLE 1), which you can get by calling the RPA Customer Service Centre (CSC). Please return this form to RPA as soon as possible to make sure your land is registered in time for you to submit your SPS 2009 application. Do not use any other form to register your new land.

Land growing the following crops is now eligible for SPS:

i. Permanent fruit and vegetables. (Not all of these are commercially grown in the UK.)

- apples, pears, apricots, peaches (including nectarines), cherries, plums, sloes and quinces;
- citrus fruit, plantains, figs, pineapples, avocados, guavas, mangoes, mangosteens, papayas and locust beans;
- mint, melissa and rosemary; and
- nuts, almonds, hazelnuts, walnuts, chestnuts, pistachios, pine nuts, macadamia nuts, pecans, other nuts (not areca or cola nuts).

If you have land on which you grow other permanent fruit and vegetable crops and you think that it may be eligible, let us know and we will consider it against the definitions in the EU regulations.

ii. Nursery crops

Areas of young woody plants grown in the open air, on soil in greenhouses or under poly tunnels for subsequent transplantation:

- vine and root stock nurseries;
- fruit tree nurseries;
- ornamental nurseries; and
- nurseries of forest trees (excluding those for the holding's own requirements grown within woodland); commercial forest-tree nurseries, whether in woodland or outside, are included in the definition, as are non commercial forest-tree nurseries for the holding's own requirements grown outside woodland. Land used for growing Christmas trees will not usually be eligible as they are not grown for subsequent transplantation.

C. Policy changes for SPS 2009 scheme year

- land used for growing trees and bushes for planting in gardens, parks, at the roadside and on embankments. For example, hedgerow plants, rose trees and other ornamental bushes, ornamental conifers, including in all cases their stocks and young seedlings.

Plants grown in pots, containers or beds are only eligible where the land on which they are positioned is eligible agricultural land. For example, soil, matting on top of soil, sand beds on soil, tables on soil. Where they are situated on concrete or other hard standing (or on tables above such surfaces), they are not eligible.

iii. Vines

This includes all land where vines are planted out in the field, whether they are currently productive or not. Land used to grow vines under polytunnels is also eligible.

iv. Other permanent crops

Land used to grow all other permanent crops is also eligible to use to support existing entitlements but not to establish new entitlements. To date we have identified the following crops in this category.

- lavender
- miscanthus
- reed Canary Grass (RCG)
- short Rotation Coppice (SRC)

For 2009 you can claim for Aid for Energy Crops on land growing miscanthus, RCG or SRC, even if that land is also used to claim SPS.

C2 End of Set-aside entitlements

The EU has agreed to abolish the requirement for a farmer to set aside a portion of their land from the SPS 2009 scheme year. Although we supported this change, Ministers are concerned that we have measures in place to capture the key environmental benefits Set-aside provided.

For 2009, this means:

- Set-aside entitlements will be converted to Normal entitlements. They will still be valued at the relevant SPS flat rate.
- You will not be required to Set-aside any of your land for the SPS 2009 scheme year. (The exception to this is where agri-environment scheme obligations, such as Environmental Stewardship options EF3, EF5, HF16, HF17, HF18 and HF19, require you to do so.)
- You can still choose, on a voluntary basis, to leave land uncropped and may use this to support Normal entitlements. Uncropped land must meet cross compliance requirements, in particular Good Agricultural and Environmental Condition (GAEC) 12. You can find further details about cross compliance in *The Guide to Cross Compliance in England*.

We will update our IT system to convert Set-aside entitlements to Normal entitlements during 2009. They will still be shown as Set-aside entitlements on your 2008 Entitlements Statement as SPS 2008 Set-aside entitlements still existed. They will be called 'Normal; formerly Set-aside' entitlements on your SPS 2009 application form.

C. Policy changes for SPS 2009 scheme year

Environmental benefits of Set-aside

We recognise that Set-aside has delivered some important environmental benefits. Secretary of State for Environment, Food and Rural Affairs, Hilary Benn, considers that the evidence presents a strong case for taking action to mitigate the loss of the key benefits. We have been investigating the possibility of introducing a new cross compliance requirement for farmers to manage a small percentage of arable land mainly for environmental benefits. This would be complemented by new 'top-up' options under Environmental Stewardship to encourage enhanced management of these areas. Further work is underway on details of the proposals, including timing, although the SPS 2009 scheme year will be unaffected.

Following changes to the EU regulations agreed under the CAP Health Check (including changes to cross compliance), Defra is considering holding a public consultation in spring 2009.

In the meantime, the Secretary of State is confident that the farming industry will want to continue to demonstrate its environmental responsibility. He has encouraged farmers to take voluntary action now by following the five point plan presented by Sir Don Curry's High-Level Set-Aside Group in November. It recommends that farmers do the following:

- Assess the environmental value of permanent uncropped land.
- Provide seed food for birds through the winter.
- Provide insect rich habitats and nesting sites for birds through the summer.
- Protect soil and water from erosion and run-off on banks, margins and steep slopes.
- Find out more about helping scarce species and protecting the environment on farms.

C3 End of National Reserve entitlements

From the SPS 2009 scheme year there will no longer be National Reserve (English Reserve) entitlements so the following changes will apply.

- English Reserve entitlements will be converted to Normal entitlements. The value of the entitlements will not lose the top-up allocated from the National Reserve.
- You will no longer need to activate for payment your former English Reserve entitlements every year to avoid the National Reserve top-up element being lost to the National Reserve. Instead, the usage rule for Normal entitlements will apply.
- From 1 January 2009, you can transfer former English Reserve entitlements. The transfer rules for Normal entitlements will apply (read the RLE 1 guidance for more information on these transfer rules).

We will update our IT system to convert English Reserve entitlements to Normal entitlements during 2009. They will still show as English Reserve entitlements on your 2008 Entitlements Statement as SPS 2008 English Reserve entitlements still existed. They will be called 'Normal; formerly National Reserve' entitlements on your 2009 SP5.

C. Policy changes for SPS 2009 scheme year

C4 Entitlement transfers (changes to status of transferor and 80% usage rule)

From 1 January 2009, if you transfer out entitlements you do not need to be a farmer at the date of transfer. This means, for example, that you can retire and then transfer out your entitlements. The person receiving the entitlements must be a farmer, this remains the same as in previous years.

You no longer need to have used at least 80% of your entitlements allocated in 2005 to transfer entitlements by sale or gift without land.

C5 Short rotation coppice

You can now use land used for short rotation coppice to activate your Normal entitlements for payment. Previously, short rotation coppice was only eligible in some circumstances.

C6 Aid for Energy Crops

The SPS 2009 scheme year is the last year of the Aid for Energy Crops Scheme. This scheme is not being replaced. This is separate from the Energy Crops Scheme under the Rural Development Programme for England (RDPE), managed by Natural England, which provides planting grants for miscanthus and short rotation coppice. This scheme will continue to run.

C7 Land in agri-environment and forestry schemes

Land used to activate entitlements for payment in 2008, will be eligible to activate Normal entitlements in 2009, where in 2009 it meets the following conditions:

- It is in an eligible forestry scheme (Farm Woodland Premium Scheme or English Woodland Grant Scheme (EWGS)). Or
- It is in an eligible agri-environment scheme (Environmental Stewardship schemes, Countryside Stewardship Scheme (CSS), Environmental Sensitive Area (ESA) scheme or Habitats scheme) which does not already meet the SPS eligibility rules. (This applies to options such as reed beds and intertidal habitats under the Countryside Stewardship Scheme (codes R, IT2 and IT3) and some ESA woodland (that which is not already eligible for SPS as grazed woodland).

Such land will also be eligible under SPS in future years, while the land remains in the forestry or agri-environment agreement. Land which you enter into EWGS in the future will be eligible if the land was used to activate entitlements in 2008. Where you use forestry land to claim SPS, your RDPE forestry payment may be reduced as in previous years.

Areas which were used to activate entitlements for payment in 2008 and which receive certain national forestry grants may also be eligible for the SPS from 2009. If you are not sure whether land under a particular forestry scheme qualifies, please contact the RPA CSC.

C8 Non-agricultural activities

The EU are due to set new rules on non-agricultural use of land. We do not yet know whether we will have to change the way non-agricultural activities are treated in England in the future for SPS purposes. We will provide more details once we have them from the EU.

C. Policy changes for SPS 2009 scheme year

C9 Payments

The UK has a maximum fund value for SPS and other direct payments. If when we calculate payments we find we have breached the fund value, we may have to scale back the payments. If we need to do this, we will provide further information with your payment.

C10 Modulation rates

The combined EU and National modulation rate in England will be 19% for the period 2009-2012 as already announced.

From the SPS 2009 scheme year, the rates of compulsory EU modulation will increase annually from the current rate of 5%, by 2% in 2009 and a further 1% per year in each of the next three years, reaching a total of 10% in the SPS 2012 scheme year. There is also an extra higher rate of EU modulation (known as progressive modulation) for farmers receiving SPS and other direct payments (Area Payments for Nuts, Aid for Energy Crops and Protein Crop Premium) worth over €300,000. This is set at 4%. However, in England these increases will be offset by a reduction in National modulation. In England, you will not pay more in total modulation as a result of the change.

C11 Modulation refund payments

The first €5,000 of your payment is exempt from compulsory EU modulation. Currently, modulation is initially applied to all of your payment and you then receive a refund at a later date for the modulation amount deducted for this €5,000. This will still be the case for the SPS 2008 scheme year payments. However, from the SPS 2009 scheme year, your initial payment will reflect the exemption and there will be no need for separate modulation refund payments.

The exemption will continue to apply to existing EU modulation only and not to the additional National modulation. This means there will be no change to the amount of total modulation paid on the first €5,000.

D. Policy changes for SPS 2010 scheme year and later years

D1 New entitlements for permanent fruit and vegetables, nursery crops and vines

As well as becoming eligible to support an SPS 2009 claim against existing entitlements, you can use land which was growing permanent fruit and vegetables, nursery crops and vines to apply for an allocation of new entitlements which may first be activated for payment under SPS 2010.

To apply for new entitlements, you should have already registered your interest with us to make sure you receive the appropriate documents. If you have not already done so, you must urgently register if you wish to apply for new entitlements. This applies to new customers and existing SPS customers (even if your land is already registered on the RLR).

We have produced Information Note 2 giving guidance and instructions to anybody interested in applying for the new entitlements. This note is available on the RPA website (www.rpa.gov.uk/new-entitlements).

If you have not yet registered your interest in applying for new entitlements, contact RPA's CSC as soon as possible; if you delay, you risk not being able to apply for what you may be entitled to.

If you have already registered your interest with RPA, we will have sent you a letter confirming your registration. Where relevant, we will also have sent you a form to register your business, *Customer Registration Form* (CReg01), and a form to register your land, RLE 1. We will then send you a new entitlements application form (SP20) in mid June. If you do not receive this by the end of June you should contact RPA. RPA's contact details are in section H at the end of this update.

D2 Minimum claim size

From the SPS 2010 scheme year, there will be a new minimum total claim size for SPS and other direct payments (Area Payments for Nuts and Protein Crop Premium). EU Member States will have some choice about the new minimum size, but in the UK we must choose a minimum which is between one and five hectares (if we choose to base the minimum on a hectareage) or between €100 and €200 (if we choose to base the minimum on claim value). Defra are likely to include these options in a consultation document during 2009.

For SPS 2009, the minimum total claim size remains at 0.3 hectares and there is no minimum claim value set.

D3 Who can apply?

From the SPS 2010 scheme year, EU Member States will have the option of limiting access to SPS and other direct payments (Area Payments for Nuts and Protein Crop Premium) to farmers whose core activities are agricultural. This may be included in the Defra consultation before deciding whether or not to take up this option.

D. Policy changes for SPS 2010 scheme year and later years

D4 Usage rule

SPS 2009 scheme year

You currently have to activate Normal and Special entitlements for payment at least once every three years, or lose them to the National Reserve. This will still apply for the SPS 2009 scheme year.

SPS 2010 scheme year

From the SPS 2010 scheme year, you will have to activate your entitlements for payment at least once every two years. However, entitlements activated in 2007 but not in 2008 or 2009 will not be lost to the National Reserve as long as they are activated for payment in 2010. This means that in 2010 you will need to activate any entitlements that were last activated in 2007 or 2008 to avoid losing them to the National Reserve.

D5 Special entitlements

Currently, if you transfer all of your Special entitlements to a single transferee, those entitlements keep their Special status when they are transferred. This is due to change so that Special entitlements will always lose their Special status (and become Normal entitlements) when they are transferred unless they are inherited, when they will keep their Special status. We do not yet know when this change will be introduced but it is not expected to be before the SPS 2010 scheme year.

D6 Entitlement corrections

New EU rules will mean that from 1 January 2010 there will be fewer circumstances under which we will make amendments to entitlement allocations. We do not yet have full details of this EU change.

In the meantime, we will continue to investigate any queries which are raised about the number or value of entitlements shown on your Entitlements Statement.

D7 National envelope

EU Member States are able to use up to 10% of their SPS funds to create a 'national envelope'. These funds can then be used for a wide range of measures, including providing support for particular types of farming to protect or enhance the environment, and to address specific disadvantages in economically vulnerable or environmentally sensitive areas.

Also, from the SPS 2010 scheme year, Member States may transfer any unused amounts (corresponding to the value of unactivated payment entitlements) remaining within their SPS ceiling, within a safety margin of 0.5% and a limit of 4%. These amounts can be used to fund national envelope measures or rural development measures.

It is too early to give any information about whether or how we might use national envelopes in the UK or to what extent we might wish to employ unused SPS funds. But, it is unlikely that we will use national envelopes in 2009.

D. Policy changes for SPS 2010 scheme year and later years

D8 Area Payment for Nuts and Protein Crop Premium

The Area Payment for Nuts and Protein Crop Premium are due to end by 2012 at the latest. Once these two schemes have ended, the funding will transfer to SPS. This means existing SPS entitlements could increase in value and/or new entitlements could be allocated to some of you. During 2009 Defra are likely to consult on the timing of these changes and the method for adding the funds into SPS.

If you are a nut grower, you should be aware of the additional opportunity to apply for an allocation of new entitlements for permanent fruit and vegetables, nursery crops and vines. If you claimed Area Payments for Nuts in 2008, your interest in new entitlements has already been registered. You will be sent an application form for new entitlements (SP20) for 2010 in mid June 2009. You will need to complete and return the form to us by 13 August 2009 to apply for an allocation of new entitlements.

D9 Decoupling of processing aids

Processing aids for hemp, fibre flax and dried fodder will end in 2012, and the funds transferred to the SPS.

E. RPA administration of the Single Payment Scheme (SPS)

E1 Single Business Identifier (SBI) barcode labels

We will not be sending you another supply of SBI barcode labels this year as we sent a double amount last year. These are unique to the individual Single Business Identifier (SBI) and you should include them on correspondence with us where there is no preprinted barcode. Further guidance was enclosed with the labels and is available on our website.

You can still use any labels you have from previous years' mailings, but if you would like some more, please call the RPA CSC. To help us deal with your query quickly, please avoid calling on Mondays, which is our busiest day, and have your SBI ready. If you need labels to use on your supporting documents for your SPS 2009 application, we advise that you call before Friday 18 April so that you get them in time.

You do not need to use these labels on forms that have a preprinted barcode.

E2 Electronic applications

Farm software packages

We are now working with farm software providers to supply updates for their packages to allow you to submit your SPS application electronically for 2009. For a list of farm software providers who are supporting the service and details of how to enrol for the Electronic Channel service for 2009, visit the RPA website.

If you have bought a farm software product and you intend to use it to submit your SPS 2009 application electronically, please make sure that your farm software provider has your enrolment details.

SPS Online

We are also working on a new electronic submission method, SPS Online. This was developed as a pilot for a limited number of customers in 2009. This allows users to submit SPS applications electronically, accessed via the Whole Farm Approach on the Defra website (www.wholefarm.defra.gov.uk). This method is only available to those taking part in the pilot for the SPS 2009 scheme. For further information on SPS Online, visit the RPA website or call the RPA CSC.

E3 Reminder on single business assessments

The notes given below are for guidance only and you must tell us about any changes to your business structure, or interests of any of your business associates in other farming business(es), for a full assessment to be carried out.

Changes to your business structure may need a change of SBI. You may need to transfer entitlements between SBIs by 2 April 2009 so that you can activate them for payment on 15 May. Read section E4 for further information.

Single/Separate Businesses

When deciding if a farming business is considered to be a single or separate business for IACS/SPS purposes, it depends on the business structure and if the business or any business members have an interest in any other farming business. Generally, where land is, or who owns the land does not form part of this process, it is who is farming the land and applying for the aid.

E. RPA administration of the Single Payment Scheme (SPS)

The main factor in most cases is the percentage share holding, but other factors are relevant. This includes who has the ultimate responsibility for long term and daily decisions and the transactions between the businesses.

There are three examples on the RPA website which show the effect shared holdings can make on the final outcome. (These examples do not take into account who has long term/daily decision responsibilities which may change the outcome.)

New/Continuing Businesses

Where there has been a change to the business structure and none of the members have an interest in another farming business, a business may be considered to be a new or continuing business. The RPA website lists a number of different circumstances.

E4 Transfers of SPS Entitlements

You can transfer entitlements at any time of the year but you may only transfer to a farmer. Under SPS, a farmer is defined as 'a natural or legal person, or group of persons, whatever status is granted to the group and its members by national law... and who exercises an agricultural activity'.

Entitlement transfers can be made:

- by sale or gift with or without land;
- by lease with land;
- through inheritance; or
- through merger or scission (division) of a business.

If you wish to transfer entitlements, you must complete and return an RLE 1 which you can get by calling the RPA CSC. The RLE 1 is used to:

- transfer entitlements with or without land;
- transfer entitlements by lease with land;
- surrender entitlements; and
- transfer land and/or make a permanent boundary change.

When you request an RLE 1 you will be asked for the following information.

- Your SBI.
- Main business address.
- The reason you are requesting the RLE 1.
- The number of businesses to which you are transferring entitlements.
- The number of land parcels you wish to transfer.

This will allow us to send you the correct number of forms and only the sections of the form relevant to your application. In most cases the RLE 1 will be preprinted with as much detail as possible relevant to the type of transfer that you are intending to make. Where it is not possible to send you a preprinted RLE 1, we will send you an RLE 1 without this detail.

We can only send the RLE 1 form and related guidance to your main business address or to your agent provided they are properly empowered (SP9 authorised). You must tell us six weeks before a transfer of entitlements is due to take place, although you can specify an effective transfer date further than six weeks ahead if you wish to do so.

E. RPA administration of the Single Payment Scheme (SPS)

If you do not specify a transfer date on your RLE 1, or you do not give a full six weeks notice, the transfer will take effect six weeks from the date we receive the RLE 1, unless we contact you within six weeks to object to the transfer.

To claim on an entitlement, you must hold the entitlement on 15 May in the scheme year. RPA must receive an RLE 1 request to transfer entitlements no later than midnight on 2 April so that the transferee farmer can receive them by 15 May.

Read the RLE 1 guidance for further information.

The farmer receiving the entitlements from the transfer will also need an SBI. If they do not have one, they should call the RPA CSC to get the relevant forms.

E5 New Common Agricultural Policy (CAP) payments website goes live

Defra has announced that a new web service detailing payments made to recipients under the CAP has been published.

The details of all payments made through Rural Development Schemes in the UK from 1 January 2007 to 15 October 2007 are available at (www.cap-payments.defra.gov.uk).

From 30 April 2009 details will be added for recipients of all CAP schemes, including SPS, for payments received during the year from 16 October 2007 to 15 October 2008. We will then publish information annually in April for the preceding CAP financial year (the financial year runs from 16 October and ends on the following 15 October).

E6 BACS payments

We can only make payments direct into bank accounts using BACS transfer. This meets EU legislation requirements, which came into force on 16 October 2008.

The majority of you have provided us with your banking details but a small number have yet to do so. If you are claiming SPS, other direct payments (Area Payments for Nuts, Aid for Energy Crops and Protein Crop Premium) or RDPE payments it is important that you provide your details because BACS transfer is now the only way in which you can receive a payment.

Alternatively, if you have moved banks or changed your bank account you need to provide us with your new details (if you have not already done so).

You should act now to make sure that your payments reach you. You can either complete the *SPS Bank details registration form* (SP12), which you were sent with your SPS 2008 application pack, or a *Customer Register, Bank details registration form* (CReg17). This form is available from the RPA CSC. If you prefer, you can e-mail RPA or download it directly from the RPA website 'customer focus' section.

E. RPA administration of the Single Payment Scheme (SPS)

E7 Aid For Energy Crops 2008 reminder

So that we can finish processing your energy crops contract, you need to tell us the amount(s) delivered to collector(s)/first processor(s) for each contract submitted, for the Aid for Energy Crops Scheme 2008.

The *Delivery Notification, declaration for harvested seed delivery by farmer to collector or first processor* form (ENC 9) was sent to all Energy crop growers last summer. The form along with guidance on how to complete the form (ENC9a) is also available from the RPA website.

The ENC 9 is different for 2008 due to a change in EC regulations. It must now be signed by both the applicant (you) and the collector/first processor. We used to ask the collector/first processor to complete a separate declaration on an ENC 2 form, but the delivery details will now only be entered on the ENC 9.

For the SPS 2008 scheme year we have set a representative yield for annual crops only. The representative yield is the minimum tonnage that an applicant is expected to deliver. Following a change to the EC regulations, multi-annual crops, short rotation coppice and miscanthus no longer need a representative yield. If you grow multi-annual crops, you will still need to declare the total tonnage of crop harvested on the ENC 9 or confirm that a harvest has not taken place for 2008.

It is important that the ENC 9 is returned to us as soon as possible. We have started to make these payments, along with those under the SPS. We advise you to make sure the ENC 9 is returned as soon as possible (if you have not already done so) as any delay will hold up your SPS 2008 payment.

F. Cross compliance changes

F1 2009

The CAP Health Check and other legislative changes mean there have been a number of updates to the requirements and standards for cross compliance for the SPS 2009 scheme year. We enclose updated versions of the relevant sections of *The Guide to Cross Compliance in England* with this policy update and you can find details of the changes in the What's New section of the guide.

You should use the enclosed Soil Protection Review (SPR) continuation sheet for 2009 until the new SPR is issued (read below). You should keep this continuation sheet with your existing SPR booklet. This sheet is also available on the RPA website and through the Whole Farm Approach at (www.wholefarm.defra.gov.uk).

F2 2010

From 2010, the CAP Health Check includes the addition of water under the Good Agricultural and Environmental Conditions (GAEC) framework. This means that we need to introduce a new GAEC standard requiring compliance with existing water abstraction licensing procedures.

The CAP Health Check has also changed the cross compliance rules on liability from 2010. Currently, the SPS applicant is responsible for making sure that cross compliance requirements are met for the whole calendar year on all the agricultural land that formed part of their holding on 15 May. This applies even where that land is transferred in or out during the calendar year of the claim. From 2010, the rules will change for such transferred land. We are considering the effects of this change but understand where the transferee or transferor were non compliant, any reductions or exclusions shall be applied to aid applications submitted by them in that calendar year. Where the transferee or transferor do not submit an aid application in the calendar year concerned, liability will remain with the claimant.

There will be some minor revisions to SPR and guidance for 2010, to show changes in CAP cross compliance policy and to provide a wider choice of options for soil protection. The layout of the updated SPR will be very similar to the existing one and the annual update of the SPR should take a similar amount of time to complete. The changes are intended to bring together all the information required to meet soil protection standards and make this information easy to access.

The Guide to Cross Compliance in England will be updated later this year to include these changes. We will update the RPA website with these changes when they are made.

F3 2012 (at latest)

As water has been added as a new issue under the GAEC framework, there will be a new standard requiring you to establish buffer strips to protect and manage water. Defra is considering a number of options to meet this standard and will carry out a full consultation exercise in 2009.

F. Cross compliance changes

F4 Cross compliance reductions

Cross compliance provides a baseline level of environmental and other standards for farmers, in return for SPS and certain land based rural development payments, which are worth around £2bn a year in England.

The majority of cross compliance standards simply require compliance with existing national law and cross compliance can be seen as a means to promote basic good practice and adherence with the law and avoid a situation where a farmer breaking the law still receives a full subsidy payment.

When cross compliance was introduced in 2005 the requirement was to inspect against a set of standards and where farmers were found to be in breach of the requirements their payment was to be reduced.

The EU regulations stated the standard reduction for a first time cross compliance breach should be a 3% reduction, with the ability to increase or reduce this depending on the severity of breach. The EU expected the majority of inspection failures would incur a 3% reduction.

There were particular concerns around cattle inspections and the failure rates around these and cross compliance was implemented with a 'light touch' approach. A reduction matrix was approved that was based around issuing warning letters for the majority of first time breaches.

In England, RPA was audited by the EU in February 2008 on the controls around cross compliance. The auditors found the majority of warning letters should have been 3% reductions. If RPA does not alter the matrix it is likely we will suffer large fines.

With immediate effect, the standard reduction for a first time breach of cross compliance standards will be 3% for SPS 2009 (including Area Payments for Nuts, Protein Crop Premium and Aid for Energy Crops) and for Pillar 2 schemes such as Environmental Stewardship schemes.

We have provided an updated financial reduction matrix and list of the most common breaches on the RPA website (www.rpa.gov.uk/crosscompliance). We have also included some useful checklists to follow for inspections.

Further guidance and assistance with complying with the cross compliance standards can be obtained from the cross compliance advice programme run by Momenta.

Cross compliance helpline: 0845 345 1302

Website: www.crosscompliance.org.uk

The British Cattle Movements Service (BCMS) Helpline:

English 0845 050 1234

Welsh 0845 050 3456

Website: www.bcms.gov.uk

G. Uplands Entry Level Stewardship/Hill Farm Allowance 2010

The Hill Farm Allowance will continue for a further year until 2010 (HFA 2010). This means that you will receive your final HFA payment from March 2010. In order to claim HFA 2010, you must submit an SPS 2009 application.

From 2010 Uplands Entry Level Stewardship (UELS) will replace HFA. It is designed to make sure that farmers are supported and rewarded for achieving landscape and environmental benefits in the uplands. UELS agreements can begin from July 2010.

Through the scheme, hill farmers will be rewarded for maintaining and improving the biodiversity, natural resources, landscape and historical values of the uplands, and for the contribution this makes to reducing and adapting to climate change.

Following consultation and trials of the scheme over the summer, Defra has made a number of changes to respond to views expressed by stakeholders and the hill farming community.

UELS is a supplementary strand of Entry Level Stewardship (ELS) specifically targeted at England's upland severely disadvantaged and severely disadvantaged moorland areas. Farmers will have to be in, or enter into, ELS or Organic ELS (OELS), in order to be eligible for UELS.

The scheme has been made more practical and attractive through changes to the technical detail and by providing transitional arrangements to ease the change from the end of HFA to the start of UELS. As well as continuing HFA for a further year until 2010, there will also be an uplands transitional payment made by RPA from 2011 for those who will not be eligible to enter UELS because of existing ESA or CSS agreement commitments (due to double funding rules). You will need to claim this payment on the SPS 2010 application form, and it must be validated and processed for payment. **You must have successfully claimed HFA 2010 in order to be eligible to claim for the uplands transitional payment at any time in the future.**

To qualify for UELS, you will have to meet a points threshold, adjusted for the size of your farm. You will get these points from a series of requirements (such as maintaining a minimum level of stock on moorland, and not using fertiliser or supplementary feed within six metres of a water course), and by choosing from a range of land management options.

Natural England is developing an enhanced advice programme to help upland farmers enter UELS. This advice is likely to be available through a range of formats, and full details will be made available in due course.

Hill Farmers are also eligible for other Environmental Stewardship schemes such as Higher Level Stewardship (HLS), ELS and OELS. You may also receive payments under SPS.

Further information on UELS can be found on the Defra website at:
(www.defra.gov.uk/rural/uplands/support.htm).

H. Further information

Further information about SPS or cross compliance is available on the RPA website (www.rpa.gov.uk).

If you have any questions, please contact:

RPA CSC on 0845 603 7777.

E-mail: csc@rpa.gsi.gov.uk

The RPA CSC is open from 8.30am to 5.00pm, Monday to Friday. We will ask for your SBI when you call.



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