

Single Payment Scheme Handbook and Guidance for England 2006

Single Payment Scheme

Handbook and Guidance for England 2006

This handbook incorporates guidance on the Area Payment for Nuts, Aid for Energy Crops, Protein Crop Premium and Less Favoured Area Support 2007 (formerly Hill Farm Allowance)

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Key changes to the Single Payment Scheme for 2006

- You can choose two different 10-month periods for having land at your disposal (see paragraphs D3–D5).
- You can buy or sell entitlements with or without land, or you can lease them with land (see paragraphs E24–E29).
- There is a new form RLE1 to be used to notify land changes and to register new land on the Rural Land Register. It is also used to notify transfer of entitlements (see paragraphs C48–C53).
- Further clarification is given on the need to submit one application form for all the land you farm, even if you do so as part of a number of businesses (see paragraphs B6–B10).
- If you are using common land to activate entitlements you may need to provide evidence to confirm your common rights (see paragraph B19).
- New crop codes have been added and further guidance provided on which codes are to be used.
- New cross compliance Statutory Management Requirements (SMRs) apply, and a number of Good Agricultural and Environmental Condition (GAEC) standards have been updated (as described in the *Cross Compliance Handbook for England 2006 edition*).
- You must complete your Soil Protection Review by 1 September 2006.
- Compensation payments resulting from reform of the sugar regime will be incorporated into the Single Payment Scheme (SPS) for 2006. At the time of printing, decisions have still to be made on how the payments are to be structured, how the historical element of entitlements will be determined and what reference period will be used. But it is likely that entitlement values will change as a result and there may also be additional opportunity to amend applications as well as a change to the current restriction on payment when growing sugar beet for non-food purposes on set-aside land (see paragraph 129 of the *Set-aside Handbook and Guidance for England 2006 edition*.) Further information will be provided when final details are known.
- Aid for Energy Crops – where crops are to be processed off-farm, it is likely that the rules will shortly be changed to allow delivery to a collector or a first processor. Further information will be provided when the final details are known.
- Less Favoured Area Support is replacing the Hill Farm Allowance.
- In most cases you need not recalculate the amount of land you are required to set aside in 2006.

**Deadline for receipt of applications:
midnight 15 May 2006**

Key dates

Date	Event
1 October 2005	Earliest start date for a 10-month period during which you have land at your disposal.
1 January 2006	Start of the 2006 scheme year and date from which you must comply with all relevant cross compliance conditions.
15 January 2006	Start of the set-aside period. You must have an acceptable green cover in place. You must not graze the land set aside or harvest any crops remaining in the ground.
1 February 2006	Default start date for a 10-month period during which you have land at your disposal, if you do not specify a date on your application.
1 March– 31 July 2006	Hedgerows must not be cut during this period (the main breeding season for birds).
2 April 2006	Final date for notifying RPA of entitlement transfer for it to take effect by 15 May.
30 April 2006	Final date on which a 10-month period during which you have land at your disposal can begin.
15 May 2006 (midnight)	Closing date for applications. Applications received after this date will incur penalties.
15 May 2006 (midnight)	Final date for receipt of signed contracts for non-food crops grown on set-aside land and for crops grown under the Aid for Energy Crops scheme.
9 June 2006 (midnight)	End of the late application penalty period, which runs from 16 May. Applications received after 9 June will be rejected.
30 June 2006	2005 payment window closes.
15 July 2006	Sowing for harvest in 2007 permitted on set-aside land.
31 August 2006	End of set-aside period.
30 September 2006	End of the extended window for additional aid (i.e. that which is exempt from modulation).
1 October 2006	Earliest start date for a 10-month period of having land at your disposal to support a 2007 Single Payment Scheme claim.
31 December 2006	End of scheme year. 2006 cross compliance period ends.

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A Introduction

- A1. This handbook sets out the rules of the Single Payment Scheme (SPS) in England, and explains how to complete the English application form for 2006. The handbook and form also cover application for the Area Payment for Nuts, Aid for Energy Crops, Protein Crop Premium and Less Favoured Area Support 2007 (previously Hill Farm Allowance). This material replaces the 2005 editions.
- A2. Before submitting your application, you should also read the following SPS publications:
- *Cross Compliance Handbook for England 2006 edition.*
 - *Cross Compliance Guidance for Soil Management 2006 edition.*
 - *Cross Compliance Guidance for the Management of Habitats and Landscape Features 2005 edition.*
 - *Set-aside Handbook and Guidance for England 2006 edition.*
 - *Less Favoured Area Support explanatory booklet 2007* (see paragraph L2).

An overview of the scheme

- A3. The SPS replaced most crop and livestock payment schemes on 1 January 2005. You no longer need to grow crops or keep livestock in order to receive aid. To qualify for payment under the SPS you must:
- hold and activate payment entitlements (including set-aside entitlements, if applicable);
 - set aside the correct amount of land against set-aside entitlements; and
 - meet cross compliance requirements on all the agricultural land on your holding (whether claimed or not).
- A4. For each hectare of eligible land you established in 2005, you will receive an entitlement to payment which can be activated in each scheme year.
- A5. For each entitlement you decide to activate, you must have a hectare of eligible agricultural land at your disposal for 10 months. If you hold any set-aside entitlements, the equivalent area of land must be set aside from 15 January to 31 August.

- A6. For the purposes of the SPS, the UK is divided into four regions: England, Northern Ireland, Scotland and Wales. England is further divided into three areas:
- England outside the upland Severely Disadvantaged Area (SDA);
 - English upland SDA (other than moorland); and
 - English moorland within the upland SDA.
- A7. To receive payment, you must apply to the scheme once a year. There are financial penalties and possible exclusion if you fail to follow the rules of the scheme, including missing the deadline for applications.
- A8. No payments will be made to anyone who artificially creates the conditions required to obtain payment under the scheme.

Relevant regulations

- A9. The rules in this handbook are based on EU and UK legislation. The main regulations are:
- Council Regulation (EC) No. 1782/2003 (as amended)
 - Commission Regulation (EC) No. 795/2004 (as amended)
 - Commission Regulation (EC) No. 796/2004 (as amended)
 - Commission Regulation (EC) No. 1655/2004
 - Commission Regulation (EC) No. 1973/2004 (as amended)
 - Statutory Instrument 2004 No. 2689
 - Statutory Instrument 2004 No. 3385 (as amended)
 - Statutory Instrument 2005 No. 218
 - Statutory Instrument 2005 No. 219 (as amended)
 - Statutory Instrument 2005 No. 1087
 - Statutory Instrument 2005 No. 3460
 - Statutory Instrument 2006 No. 169
 - Statutory Instrument 2006 No. 239

Disclaimer

- A10. This handbook reflects Rural Payments Agency (RPA) interpretation of the SPS legislation at the time of going to print. It does not provide a definitive statement of the law. This can only be given by the courts.
- A11. RPA reserves the right to review its position if circumstances change: for example, if the European Commission issues new guidance. You may therefore wish to seek independent legal advice before making any changes to your own farming arrangements. RPA is unable to advise individuals or their legal representatives on specific circumstances related to their farming businesses.

B Who can apply?

Background

- B1. The Single Payment Scheme (SPS) is managed through the Integrated Administration and Control System (IACS), which sets down conditions for the identification of both farmer and land, the identification and registration of payment entitlements, general principles in respect of agricultural parcels and how they are claimed, and requirements for controls and payments.

Eligibility for the SPS payment

- B2. To claim under the SPS you must be a farmer with eligible land and payment entitlements.
- B3. You do not need to undertake any production in order to be regarded as a farmer for the purposes of the scheme but, whether or not you produce, you will still need to meet the requirements of cross compliance including Good Agricultural and Environmental Condition (GAEC) on **all** your agricultural land.
- B4. The meaning of the terms 'farmer' and 'eligible land' in the context of the SPS are explained in the glossary in Part T of this handbook. For guidance on payment entitlements, see Part E. For further information on GAEC, see the *Cross Compliance Handbook for England 2006 edition*.

If you farm in more than one UK region

- B5. The IACS rules require that all the land you farm in the UK is covered by one SPS application. If you farm land in more than one UK region, your application will comprise two or more separate forms, which must be submitted together (see paragraphs N2 and N3).

Involvement in more than one business

- B6. Your SPS application (which may consist of separate application forms for land in different regions of the UK) must cover all the land you farm. Even if you are involved in a number of farming businesses that are separate legal entities (such as a limited company or a partnership), **you should not assume that you can make a separate SPS application for each one**. Depending on how the businesses are set up and your involvement in them, it is possible that they should be treated as one business for SPS

purposes. You should contact RPA if you are unsure whether to apply as one single or several separate businesses. Paragraphs P5 and P6 detail the consequences of not declaring all the agricultural land that you farm.

- B7. Question A1 on the application form asks you to indicate whether you are involved in more than one farming business. You should answer yes if you have any involvement or interest in any other farming business anywhere in the UK that you are not including on the application form. You may be asked to provide further information to demonstrate that these businesses are separate and can be the subject of separate SPS applications.
- B8. If we need to determine whether the businesses you are involved in can be treated as separate for SPS purposes, we will send you a questionnaire asking for details including:
- the legal status of the businesses;
 - the names and responsibilities of those involved (including percentage shareholdings if appropriate);
 - the extent to which the businesses are run separately on a day-to-day basis;
 - whether there are separate farm plans and accounts;
 - the extent to which there is independence of decision-making; and
 - where the overall economic control and benefit lie.
- B9. None of these factors is conclusive in itself, and you may be asked to provide additional information such as partnership agreements, accounts, Certificate of Incorporation or Articles of Association. The responsibility for proving to RPA that your businesses ought to be regarded as separate under the SPS rests with you.
- B10. If you were the subject of a separate business assessment under the old IACS arable and livestock schemes **and your business arrangements are unchanged**, the decision made then should still apply now. If the decision then was that your businesses should be included on one application, you should now include those businesses on one SPS application.

Farmers of common land

- B11. If you have rights of common, you may be able to use them to activate entitlements under the SPS. You must be a farmer and have a legal right to use the common (normally a right of grazing registered under the Commons Registration Act 1965). It may also be possible to demonstrate other rights (such as an owner's right to surplus grazing). The SPS does not alter your legal rights of common, or your ability to exercise those rights.

- B12. If you own a house or other land that has common grazing rights attached, you will only be able to claim entitlements in respect of those rights if you are a farmer. You are unlikely to be a farmer if the only land available to you is common land and you do not exercise your rights in respect of that land.
- B13. You may claim payment in respect of any right of common which entitles you to graze stock (including ponies) on the common, provided the common grazing is at your disposal in compliance with the 10-month rule. This includes rights of pannage (grazing of pigs). You may not claim in respect of any common land over which your stock stray, i.e. where you have no registered right to graze.
- B14. There should be nothing in the Common Land Register or relevant agri-environment grazing requirements that compromises your ability to comply with the 10-month rule in respect of the land you are claiming for the SPS. Different rules apply to common land used solely to claim Less Favoured Area Support (see Part L).
- B15. The common land claimed must meet all SPS eligibility requirements. It must be managed to meet the requirements of cross compliance including GAEC. This applies to the whole common, so if there is a breach of GAEC anywhere on the common, the farmer (or farmers) to whom the breach is directly attributable may have their payments reduced in whole or in part. You do not, however, need to carry out a Soil Protection Review for common land.

New Forest common rights

- B16. If you are claiming New Forest common rights, you must supply a photocopy of valid marking fee receipt(s) to support your claim. A valid receipt is one that is signed by an agister. The receipt should show that marking fees have been paid for the entire 10-month period that you have stated on your SP5 application form.

Cross-border commons

- B17. If you have rights on a common that straddles the border between England and Wales or Scotland, you must complete the relevant application forms with your cross-border common land listed on each one. The number of rights you can hold and activate in England will be in proportion to the area of common actually in England, and the balance will be in the other region. You must ensure that you claim the correct number of rights in each region. Similarly, if you have rights on a common that straddles English areas, you must ensure you claim the correct number of rights in each area.

Commoners' associations

B18. Exceptionally, a commoners' association (and other bodies) may activate entitlements, provided they can demonstrate that they meet the definition of a farmer, and they:

- lawfully exercise the rights of one or more commoners; or
- lawfully exercise rights on behalf of the owner of the common; and
- can meet the remaining scheme rules.

All such bodies should seek independent legal advice.

Evidence of right of common

B19. If you are using a common right to activate entitlements you may be asked to provide evidence of your right. You should be aware that your claim may not be paid until satisfactory evidence is provided to RPA.

Share farmers

B20. Payment entitlements can only be activated for payment by the farmer who holds them on 15 May 2006. Monies received can of course be divided between members of the share farming agreement as you wish.

C What land can be claimed under the SPS?

Eligible land

- C1. Eligible land under the SPS is any agricultural area of the holding taken up by arable land and permanent pasture except:
- areas under permanent crops (see paragraph C26);
 - forests; or
 - areas which are used for non-agricultural activities (see paragraphs C27–C36).
- C2. Only eligible land can be used to activate entitlements for payment under the SPS. Eligible land includes:
- land used for normal arable/combinable crops including energy crops, protein crops, flax and hemp;
 - land used for potatoes, sugar beet and other root crops;
 - land used for forage maize and forage rape;
 - land under grass for less than five years;
 - land used for fruit including strawberries (but not top fruit);
 - land used for vegetables;
 - land under greenhouses or fixed or mobile cover (unless made unsuitable for agriculture, for example by concreting);
 - land used for multiannual crops (see paragraph C3);
 - nurseries growing multiannual crops;
 - land used for cut flowers and bulbs;
 - land used for turf, except for fuel (e.g. peat cutting);
 - existing set-aside;
 - fallow land maintained in Good Agricultural and Environmental Condition (GAEC);
 - land used for hops;
 - permanent pasture (see paragraphs C7–C10); and
 - in some circumstances, land that forms part of an orchard or grazed woodland (see paragraphs C11–C21).

Multiannual crops

- C3. Land and nurseries growing the following multiannual crops are considered eligible:
- artichokes;
 - asparagus;
 - rhubarb;
 - raspberries, blackberries, mulberries and loganberries;
 - black, white or redcurrants and gooseberries; and
 - cranberries, bilberries and other fruits of the genus *Vaccinium*.

Energy crops

- C4. Short rotation coppice, all species of *Miscanthus* (not just *Miscanthus sinensis*) and nurseries (as defined in Part T) can all be used to activate payment entitlements where those crops are grown on non-set-aside land and where Aid for Energy Crops is also being claimed (see Part I). You will need to have an energy aid contract in place to use this land to activate entitlements.
- C5. In addition, land on which short rotation coppice, *Miscanthus sinensis* or reed canary grass is grown (irrespective of the end use) can also be used to activate entitlements, provided the crops were planted:
- between 30 April 2004 and 10 March 2005; or
 - before 30 April 2004 **and** the land was leased or acquired between 30 April 2004 and 10 March 2005 with the intention of applying for the SPS – irrespective of the end use and whether or not the crops were planted under an energy aid contract.
- C6. For details of energy crops which can be grown on set-aside land as non-food crops, see Section G of the *Set-aside Handbook and Guidance for England 2006 edition*.

Permanent pasture

- C7. Permanent pasture is land:
- used to grow grasses or other herbaceous forage that may be naturally self-seeded or sown; and
 - not included in the crop rotation for five years or more; and
 - not set aside during this five-year period (whether under the Arable Area Payments Scheme, the SPS or taken out of production under some agri-environment scheme options).
- C8. Land which has been down to grass since 15 May 2001 and which will still be grass on 15 May 2006 will be classified as permanent pasture, and a permanent pasture code should be used.

- C9. Land which is resown with grass or other herbaceous forage during a five-year period is still counted as permanent pasture. However, land which is in long-term grass, but which has been reseeded following a catch crop such as stubble turnips in the last five years, is considered arable land.
- C10. Land taken out of production under the following agri-environment scheme options should **not** be considered permanent pasture, even if it meets the criteria above:
- Entry Level Stewardship EE1 (2 metre buffer strips on cultivated land); EE2 (4 metre buffer strips on cultivated land); EE3 (6 metre buffer strips on cultivated land); EE8 (buffering in-field ponds on arable land); EF4 (pollen and nectar flower mixture on arable land); EF5 (pollen and nectar flower mixture on set-aside land); and EF7 (beetle banks).
 - Organic Entry Level Stewardship OE1 (2 metre buffer strips on rotational land); OE2 (4 metre buffer strips on rotational land); OE3 (6 metre buffer strips on rotational land); OE8 (buffering in-field ponds on rotational land); OF4 (pollen and nectar flower mixture); OF5 (pollen and nectar flower mixture on set-aside land); and OF7 (beetle banks).
 - Higher Level Stewardship HE10 (floristically enhanced grass margin).
 - Countryside Stewardship R3 (6 metre margin); R7 (2 metre grass margin); R8 (2 metre beetle banks); and WM2 (pollen and nectar source).
 - Arable Stewardship 4A (4–12 metre grass margins); 4B (beetle banks); and 5 (wildlife seed mixtures, pollen and nectar source).
 - Environmentally Sensitive Areas (ESA) The Broads (Tier 4B) and Upper Thames Tributaries (Tier 3c).
 - Habitat Scheme 1B.

Orchards

- C11. Generally, intensively managed orchards are **not** eligible under the SPS. Herbicide-treated or mechanically-created strips beneath tree canopies or bushes will normally be taken as evidence that the orchard is ineligible. This is the case even if the land is temporarily revegetated.
- C12. Orchards managed using low-intensity methods may be eligible, provided they also meet at least one of the following criteria:
- They are within an orchard maintenance or regeneration option of the Countryside Stewardship Scheme, the ESA scheme or the Higher Level element of Environmental Stewardship.
 - There are fewer than 150 original tree stations per hectare. This means that trees should be spaced approximately 10 metres apart at least.

- The first major fork or main-frame branches of the trees are at least 1.5m above ground level.
 - Where there is no single straight trunk and the height cannot be measured, tree trunks are 1 metre or more in circumference at ground level.
 - Livestock (normally sheep) graze throughout the orchard, and have access to and utilise vegetation growing on the floor of the whole orchard, apart from within tree-guards around individual trees.
 - 90 per cent of the foliage or buds on established trees are at least 1.5 metres above ground level (i.e. above the reach of sheep).
- C13. These criteria are illustrative only. In some cases, an orchard might appear to be eligible but in fact still be ineligible. RPA will examine each case individually.
- C14. Code PP1 (and not forestry codes) should be used for this land on your application.

Grazed woodlands

- C15. Parcels of grazed woodland with less than 50 trees per hectare are eligible under SPS.
- C16. Parcels of grazed woodland with more than 50 trees per hectare may also be considered eligible if you can demonstrate that:
- there has been a history of acceptable grazing practice (for example through previous scheme applications, or the presence of trees with features caused by browsing – such as basal swelling); and
 - grazing is not damaging the ecological value of the site, for example by significantly reducing the number of existing tree seedlings and saplings or by reducing the occurrence of grazing-sensitive plants such as bramble.
- C17. New woodland that is grazed may also be eligible, provided that the trees are adequately protected from grazing.
- C18. When claiming for grazed woodland under SPS, you should make appropriate allowances for the area taken up by the trees.
- C19. In all cases deductions must be made in respect of areas within an agricultural parcel where trees or bushes are preventing the growth of vegetation suitable for grazing.
- C20. All relevant cross compliance standards – including those relating to over-grazing and supplementary feeding – also apply to these areas of woodland.
- C21. Code PP1 (and not forestry codes) should be used for this land on your application.

Land which is not eligible for the SPS

C22. The following land is **not** eligible for the SPS:

- land under permanent crops or nurseries of permanent crops, including Christmas trees and hardy ornamental nursery stock (see paragraph C26 below for exceptions).
- Land being used for peat production.
- Forest.
- Orchards (see paragraphs C11 and C12 for exceptions).
- Land being used for non-agricultural purposes (see paragraphs C27–C36 for information on the limited non-agricultural uses that are permitted).

C23. If this land is put to a different use in future it may become eligible for the scheme and could then be used to activate an entitlement for payment.

C24. Ineligible agricultural land must, however, be declared on your application – even though it cannot be used to activate entitlements. See paragraphs P5 and P6 for the penalties that apply if you fail to declare all of your land.

C25. For guidance on ineligible features which must be deducted from your field sizes, see paragraphs C41 and C42.

Permanent crops

C26. Land which is used to grow permanent crops (as defined in Part T) is normally ineligible for payment under the SPS. However, some exceptions may apply for:

- land used for growing hops;
- some orchards and grazed woodlands (see paragraphs C11–C21);
- non-food crops grown on set-aside land (see the *Set-aside Handbook and Guidance for England 2006 edition*, section G); and
- energy crops (see paragraphs C4–C6).

Non-agricultural use

C27. The eligibility of land which is used for non-agricultural activities depends on the type of activity it is used for. Non-agricultural activities are divided into three categories:

- category A – activities permitted without restriction;
- category B – activities permitted up to a 28-day limit; and
- category C – activities inconsistent with the land being considered as remaining in agricultural use.

C28. The following list is intended to provide guidance only, and is not exhaustive. Note that the list has been revised since it was last published in the *Single Payment Scheme: Information for farmers and growers in England October 2005 Update*. It now includes more detail on horse-riding in category A and references to charging have been removed.

Category A – activities permitted without restriction

C29. Activities which are permitted without restriction include:

- walking;
- bird-watching;
- school or university nature or farm visits;
- horse-riding along bridleways (in this context, bridleway, means any unsurfaced highway or route on which riding is allowed or for which a right of way on horseback exists. This may include statutory bridleways as well as other routes such as byways, permissive routes or field edges avoiding busy roads);
- bicycle-riding along defined paths or bridleways;
- fishing;
- hedge-laying competitions, local ploughing competitions or other cultivation demonstrations within the applicable GAEC rules (this excludes events where trade stands are present, which fall under category B);
- shooting (game);
- deerstalking;
- drag-hunting; and
- paragliding and hang-gliding.

Category B – restricted activities – 28-day limit

C30. Activities in this category are permitted up to a 28-day limit and include:

- shooting (clay);
- car boot sales;
- car parking (whether or not it is associated with any of the activities listed);
- country fairs and shows;
- farm auctions and sales;
- equestrian activities (except those described under category A);
- ballooning;

- festivals and events;
- scout or guide camps, or similar;
- TV and film locations;
- caravan sites (for periods of more than 28 days, the affected area should not be used to support a claim. This need not affect a whole field); and
- motor sports.

Category C – activities inconsistent with land being considered as remaining in agricultural use

C31. This category includes situations in which the principal purpose of the land is for recreational or other non-agricultural use, for example a golf course, any other permanent sports facility, a gallop or an airport.

How the restrictions apply

- C32. The restrictions apply only during the 10-month period when the land is required to be at your disposal. Outside that period, the land may be used for other purposes and you can choose a start date for the 10-month period that fits in with your other business activities. In all cases, however, cross compliance conditions – including GAEC and Statutory Management Requirements (SMRs) – will apply to the agricultural area for the whole calendar year. Rules on deducting ineligible features also apply (see paragraphs C41 and C42).
- C33. The limits apply to the number of days on which non-agricultural usage takes place, not a number of 24-hour periods to be divided over a larger number of days. You should also take account of the number of days the land is reserved or is being prepared for the activity, not just the number of days on which the activity actually takes place.
- C34. If the limits are exceeded, the affected area – rather than the whole holding or whole field – will be regarded as ineligible. Special consideration will be given on a case-by-case basis where the 28-day limit has been exceeded due to *force majeure*.
- C35. This guidance is for SPS purposes only. If you have an agri-environment agreement you will need to check with the Rural Development Service (RDS) to establish which activities are permitted on the land covered by your agreement. Other legal restrictions, e.g. planning restrictions, may also apply.

Land used for military training

C36. Eligible land used by the Ministry of Defence for military training can be claimed under the SPS. Cross compliance conditions will, however, still apply.

Set-aside land and SPS-related schemes

C37. Specific rules apply to the use of set-aside land and land used to claim under the remaining direct aid schemes for nuts, proteins and energy crops. These are described in the *Set-aside Handbook and Guidance for England 2006 edition* and in the relevant parts of this handbook.

Land in agri-environment schemes

C38. Participation in agri-environment schemes (Environmental Stewardship, Countryside Stewardship, Environmentally Sensitive Areas and Organic Farming Scheme) does not normally affect the eligibility of land for payment under the SPS. Provided the land meets the SPS eligibility criteria, it can form part of your SPS claim (see paragraphs C1–C21).

Minimum area to be claimed

C39. The minimum total area to be claimed under the SPS and other direct aid schemes is 0.3 hectares. The minimum individual parcel size is 0.1 hectares (except in relation to 6–10 metre set-aside strips, where the limit is 0.05 hectares). The minimum area is 0.1 hectares where the strip width exceeds 10 metres.

Area measurement for the SPS

C40. In general the total area of the field indicated on your Rural Land Register (RLR) map can be used when activating entitlements (column C10 on the application form). In a cropped field, even uncropped areas such as grass banks and strips do not need to be deducted **provided** they are kept in GAEC, meet all cross compliance requirements and are at least capable of being grazed (although they do not need to actually be grazed). In other words, the land must be agricultural in order to be included in the field size.

Advice on deducting ineligible areas

- C41. The area of the following non-agricultural features should be deducted from your claimed area:
- buildings, sheds and hard standing;
 - permanent ponds;
 - fenced-off pylons; and
 - metalled or surfaced paths, tracks and bridleways.
- C42. This list is not exhaustive, but gives an indication of the type of areas that must be deducted. If you have already had these areas deducted from the field area on your RLR map, you should not deduct them again (see paragraph C52).

Area measurement for the Protein Crop Premium and Aid for Energy Crops

- C43. The SPS rules on area measurement also apply to land claimed for the Protein Crop Premium and Aid for Energy Crops **but with one important exception: for the whole field to count it must be fully utilised.**
- C44. Where boundaries lie at the centre of a ditch or hedge, the area of the ditch or hedge (or combination of both) can be claimed provided the width from the boundary into the field does not exceed two metres. Wider features may be claimed if they are characteristic of the landscape, form part of good agricultural cropping or utilisation practice, or have previously been accepted at inspection.
- C45. Under these schemes, areas of bare soil, grass banks and grass strips are not eligible for aid and should be deducted (unless they are machinery tramlines or turning circles). If these areas are at the edge of the field they should be included in the field margin calculation to determine whether the margin exceeds the two metres allowed. This means that a field claimed for both SPS and the Protein Crop Premium (e.g. a field growing peas) may have one eligible area for the SPS and another one for the premium.

Paths, tracks and bridleways

- C46. In relation to the Protein Crop Premium and Aid for Energy Crops, visible paths, tracks and bridleways which are not Public Rights of Way (PRoW) should be measured, and the actual area deducted from your claim. If they are PRoWs, however, and they run across the field, the area to be deducted (even if covered by a crop) is:
- 1 metre multiplied by the length of a footpath; or
 - 2 metres multiplied by the length of tracks and bridleways.

C47. Where PRoWs run adjacent to a field boundary, the deduction is:

- 1.5 metres multiplied by the length of a footpath; or
- 3 metres multiplied by the length of tracks and bridleways.

Registering land on the Rural Land Register (RLR)

C48. All the land forming part of your 2006 claim should be registered on the Rural Land Register (RLR). In addition, SPS rules require that all other agricultural land on your holding must be included in your application.

C49. Your application form will be pre-printed with the field data shown on your RLR map. However, if at the time your form was pre-printed, the validation of your 2005 form was not complete, some fields may not appear or may require amendment. If this is the case you still need to ensure that you include **all** the agricultural land on your holding accurately.

C50. If there have been changes to field boundaries since the map was produced, or you wish to include land on your application form that has not been registered before, you should complete form RLE1 in order for changes to be made. You should include a map of the land. RLE1 forms are available from the Customer Service Centre. A sample form and guidance are available on the website. The old IACS22 form will not be accepted.

C51. If you submit an RLE1 well in advance of the May deadline for SPS applications, you should receive confirmation of any new field numbers and areas in time to make corrections or additions on your application form by hand.

C52. If you do not have the new field numbers and sizes before the deadline for submitting your SPS application, you should still enter the field on the form if it is agricultural land. You should quote the field reference you have (as on the RLE1, if you have submitted one) and the size in hectares to two decimal places. If you have made allowance for ineligible features, these will be deducted to give a new total area for activating SPS entitlements for that field.

C53. If your RLE1 is still outstanding, do not resubmit it with your claim form but send a covering letter explaining clearly which fields are still outstanding. If you have not submitted an RLE1 to notify us of new land or changes, and do so with the SPS form, there must be an accompanying map for any new land. If you do not send a map, and we cannot therefore identify the field, it will be rejected for payment.

D The 10-month rule

- D1. Land used to activate an entitlement under the SPS must be at your disposal for a period of at least 10 months for each scheme year, and must be eligible for SPS throughout the whole of that period. The 10-month period can start at any time from 1 October in the year before the year of application until 30 April in the year of application.
- D2. The 10-month rule only applies to land claimed under the SPS. It does not apply to land claimed solely under non-SPS schemes, for example Less Favoured Area Support.

Choosing a start date

- D3. You can choose up to two start dates for land on your holding. This applies to the entirety of your holding, regardless of where in the UK the land is situated. For example, if you have one farm in England and one farm in Scotland, you could choose 1 October and 1 January as the start dates for your farm in England but you must use one or both of those start dates for the farm in Scotland as well.
- D4. The 10-month periods selected for a particular land parcel in successive scheme years must not overlap. This means that neither of the start dates you choose for the 2006 scheme year can overlap with the 10-month period you used for the 2005 scheme year. The same will apply to the transition between 2006 and 2007. So if, for example, for the 2006 scheme year your 10-month period for a particular land parcel ended on 31 October 2006, the 10-month period you choose for the same parcel in 2007 may not begin until 1 November 2006 at the earliest.
- D5. However, the 10-month period selected for **different** land parcels in successive scheme years **can** overlap. So if, for example, for the 2006 scheme year the 10-month period for some of your land (parcel A) ended on 31 December 2006, the 10-month period for your other land (parcel B) for the 2007 scheme year **may** start before 31 December 2006, provided it does not overlap with the 10-month period for parcel B for the 2006 scheme year. However, as explained above, the 10-month period for parcel A for the 2007 scheme year may not start before 1 January 2007.
- D6. If you do not specify a start date on your application form, you will automatically be allocated a start date of 1 February.

Land 'at your disposal'

- D7. You will probably know which land is 'at your disposal' because you own and farm the land, have a tenancy under the Agricultural Holdings Act 1986 or a farm business tenancy under the Agricultural Tenancies Act 1995, and take full responsibility for managing the land.
- D8. However, the position may not be so clear where you and one or more other farmers carry out an agricultural activity on the same area of land. Considering the following factors will help you to establish whether or not the land is 'at **your** disposal'. This list is not exhaustive; nor is it given in any particular order. It is only intended to provide an indication of the sorts of factors that you could take into account when establishing whether land is 'at your disposal':
- whether one of you clearly has use of the land for less than 10 months (subject to the rules on the transfer of entire holdings);
 - who actually uses the land;
 - the predominant use of the land;
 - whether you actually carry out an agricultural activity, which includes keeping the land in Good Agricultural and Environmental Condition (GAEC);
 - who takes the profit from the land;
 - who takes the risks;
 - the terms of any agreement between you;
 - your legal rights, including the right to terminate and to carry out an agricultural activity on the land;
 - who has control over the use of the land and access to it, so as to ensure that it is put only to eligible uses; and
 - who has control over the use of the land and access to it, so as to ensure that it is maintained in accordance with cross compliance requirements including GAEC.

Examples

1. **You are a landowner and claim on your own land farmed in hand.** You farm the land yourself and, as there are no other farmers involved, you are able to claim payments on eligible land provided you hold entitlements.
2. **A farmer is operating with a farm tenancy lasting 12 months or longer.** The tenant's position is the same as that of the landowner farming in hand.
3. **A landowner grants a grazing licence to a livestock farmer for 10 months.** Depending on the rights and obligations of both parties, a claim could come either from the landowner or the licensee (grazier). For instance, the

landowner could claim given that he/she has responsibility for looking after the quality of the land, fertilising and reseeding as required, and for maintaining key features such as hedges, gates and tracks. Alternatively, the grazier might claim on the basis that the agricultural activity is principally under his/her control. Eligibility to claim payment will depend on the contract or agreement between the landowner and the grazier, and how this is reflected in practice on the land. Whoever makes the claim is responsible for ensuring that any cross compliance requirements are met.

4. **You are a short-term tenant or licensee wishing to claim.** If you wish to claim under the SPS, your tenancy or licensing agreement should show that you have the land at your disposal for 10 months or more. Even if you do not have unrestricted use of the land for the entire period, you must be the predominant user, must control use of the land and must have responsibility for cross compliance during the 10-month period.

Sub-letting and contractual agreements

- D9. The terms of any sub-letting and contractual arrangements can have an important effect on your ability to make a claim for payment. Existing agreements – even those that have been in place for years – may need to be changed to reflect the new situation. A written agreement is preferable, although oral agreements may be equally valid in law. If land is not in fact at your disposal, penalties may apply (see paragraphs P7–P16).

Contract farming

- D10. A contract farming agreement does not usually convey rights to the land to the contractor. The contractor has access to the land to undertake his duties at the bidding of the farmer, and so simply acts as the agent of the farmer. In this case, only the farmer is eligible to claim payment.

Resolving disputed claims to payment

- D11. You should resolve all issues concerning whether land is 'at your disposal' before making a claim. If you do not and it is subsequently found that the land was not at your disposal, this will constitute an over-declaration, and penalties may apply (see paragraphs P7–P16). While two claims remain in respect of the same parcel of land, no payment can be made.

E Entitlement to payments

- E1. Payment entitlements form the basis of the SPS. Entitlement statements were sent out to farmers who applied to establish entitlements as part of the 2005 application process.
- E2. If you hold an entitlement you have the right (subject to certain conditions being met) to claim a payment under the scheme. If you wish to increase or reduce the number of entitlements you hold, you can do so by transfer. If you have land in more than one UK region or in different areas of England (see paragraph A6), your reference amount will have been allocated between the areas you farm (or where you still farm if you ceased farming somewhere since the reference period). The different types of entitlement, their value and how to activate them are explained below. Information on the rules governing the transfer of entitlements is given at paragraphs E24–E29.

Types of entitlement

- E3. For each hectare of eligible land you declared on your 2005 SPS application form, you will have received an entitlement to claim payment under the SPS. Your entitlements will fall into one of the following categories:
- **normal entitlement (code NML)** – the standard payment entitlement that will be allocated to most applicants;
 - **set-aside entitlement (code SAS or SAF with fvp authorisation)** – if you entered qualifying arable land into the SPS in 2005 and were not classified as a small producer, a number of the entitlements you receive will be set-aside entitlements;
 - **National Reserve entitlement (code ERS or ERF with fvp authorisation)** – entitlements you receive, or have enhanced in value by more than 20 per cent, as a result of a successful application to the National Reserve. Different conditions of use apply to these entitlements (see paragraphs E12–E13);
 - **special entitlement (code SPE)** – if you are a dairy or livestock farmer, a special entitlement may be created (see Part F) if you claimed payments with no associated forage area requirement in the reference period, or if you hold a normal entitlement worth more than €5,000 (subject to other requirements being met);
 - **authorised entitlement (code NMF)** – specific conditions apply to authorised entitlements for growers of fruit, vegetables and potatoes (fvp) who wish to claim under the SPS (see Part G).

Activating entitlements

- E4. The entitlements you hold can be activated for payment (claimed) in each year you apply under the SPS. Before you can activate all your entitlements, you must have at least an equal number of eligible hectares at your disposal for a period of at least 10 months. For full details of the 10-month rule, see Part D.
- E5. If you have fewer eligible hectares than entitlements, you can only activate the number of entitlements for which you have eligible hectares.
- E6. For each set-aside entitlement you hold, you must correctly set aside a hectare of land unless you are exempt (see the *Set-aside Handbook and Guidance for England 2006 edition*). You can only use set-aside entitlements to claim payment on land you manage as set-aside.
- E7. You must claim set-aside entitlements before any other entitlements. This means that if you have land which is eligible for set-aside, you must fulfil your set-aside obligation if you wish to activate any other entitlements. The penalties for failing to do this are set out at paragraphs P18–P20.
- E8. If you no longer have enough land eligible for set-aside to meet your set-aside obligation in full, you must activate as many set-aside entitlements as your land eligible for set-aside will support. You can then activate normal entitlements without incurring a penalty. You will not be paid on unactivated set-aside entitlements, and if they are not claimed on within a period of three years they will revert to the National Reserve.
- E9. If you have transferred set-aside entitlements in time for the 2006 scheme, your set-aside obligation will have been adjusted by adding or subtracting the equivalent number of hectares from your 2005 set-aside obligation.

Usage rule

- E10. **If you do not activate an entitlement for three years it will be taken away from you and put into the National Reserve** except in cases of *force majeure* or exceptional circumstances.
- E11. Entitlements can be 'rotated' to ensure that they are used at least once in any three-year period, but they can only be used in the area of England where they were established. So, if you have 90 entitlements but only 30 hectares of eligible land in 2006, you can use 30 entitlements in 2006, a different 30 entitlements in 2007, and then the remaining 30 entitlements in 2008. You can then use the first 30 entitlements again in 2009, and so on. This means you can use all your entitlements at least once every three years.

- E12. There are, however, special provisions for non-use of National Reserve entitlements. Entitlements that have been allocated from the National Reserve – or that have been increased in value by more than 20 per cent because of an allocation from the National Reserve – must be used **every** year for the five years starting from their allocation. National Reserve entitlements cannot be transferred until the five-year usage rule is met.

Example

Your entitlement has increased by more than 20 per cent because of an award from the National Reserve in 2005. You use that entitlement in 2005 and must also use it in every year between 2006 and 2009. After that, you will be able to transfer it to another farmer for his/her use in the 2010 scheme year. The entitlement would have to be transferred in time for the 2010 application deadline.

- E13. Where an award from the National Reserve is deferred, e.g. where it is made in respect of participation in an agri-environment scheme, and the effect of the deferred award is to increase the unit value of the entitlement by more than 20 per cent, the five-year restriction period begins with the first scheme year in which the award can be claimed.

Example

You receive a deferred award that can first be claimed in 2008. You use it in 2008 and must also use it in every year between 2009 and 2012. After that, you will be able to transfer it to another farmer for his/her use in the 2013 scheme year. The entitlement would have to be transferred in time for the 2013 application deadline.

- E14. Entitlements and their types are identified on the application form to enable you to specify which you wish to use (activate) in any given year.

Value of entitlements

- E15. Initially, the value of entitlements varies from farmer to farmer depending on where they are farming and differences in reference amounts. Eventually a single value will be established for all entitlements in each of the three English areas.
- E16. The basic value of an entitlement is made up of two elements: a flat rate and a historic reference amount.
- E17. The **flat rate** is based on a percentage of the total amount available to pay applicants to SPS in each of the English areas. Paragraph O5 shows the percentage for 2006 and subsequent scheme years.

- E18. The value of every entitlement in the same English area will be based on this flat rate. As the flat rate element of the entitlement increases, any historic element reduces correspondingly. If you apply to the SPS but have no historic reference amount, you will receive only the flat rate element of the payment.
- E19. The main addition to the flat rate payment for entitlements – other than set-aside entitlements, which receive only the flat rate – is the **historic reference amount**. This element is based on claims made during the 2000–2002 reference period or, in the case of dairy premium, milk quota held on 31 March 2005. The historic reference amount was calculated from the results of the information statement exercise carried out in 2005 and from milk quota records held by RPA.
- E20. You may also hold normal entitlements whose value has been increased as a result of:
- **National Reserve allocations** – if your application to the reserve was successful you will have received a further amount in addition to the historic reference amount described above.
 - **Private contracts** on sale of land – the farmer who took on the land will have an increased historic reference amount to apply to their flat rate.
- E21. For 2006, there will be an increase to the fixed amount available to make payments under the SPS in England as a result of additional dairy reference amounts and new compensation for the sugar reform. This is likely to affect the value of **all** entitlements, as flat rate values will be increased by the allocation of additional sums to:
- entitlements to which dairy reference amounts were added in 2005;
 - entitlements which are designated in 2006 to receive the historic element resulting from sugar reform (following the outcome of the current public consultation on this issue).
- E22. The value of entitlements may be reduced as a result of:
- **The National Reserve** – a maximum 3 per cent reduction was initially applied to all reference amounts in 2005 to fund the National Reserve. A further reduction from all entitlements may be necessary if this initial reduction is insufficient to continue to fund all successful applications.
 - **National ceiling** – if the 2006 ceiling on payment imposed on the UK is exceeded, there will be a reduction in value across the 2006 additional dairy reference amounts in the region where the ceiling was breached. This will also apply in cases where entitlements have been transferred.
- E23. For details of reductions resulting from modulation, see paragraphs O6–O10.

Transferring entitlements

E24. Entitlements can be transferred:

- by sale or gift with land;
- by sale or gift without land (subject to the usage rule restriction below);
- by lease with land; or
- through inheritance.

E25. Entitlements may only be transferred between farmers. However farmers who successfully applied to establish entitlements in 2005 are able to apply to transfer those entitlements before 15 May 2006 even if they retired from farming prior to definitive establishment.

E26. You can own or lease entitlements anywhere in the UK, but an entitlement can only be used to claim a payment in the UK region or English area in which it was established (see paragraph A6). Transfers between farmers established in different member states can only take place through inheritance, and the entitlements concerned may only be used in the originating member state.

E27. Unless you have been affected by events qualifying as *force majeure* or exceptional circumstances, you can transfer entitlements without land only if you have:

- already claimed payment against at least 80 per cent of your total number of entitlements in one year; or
- voluntarily given up to the National Reserve all the entitlements you have not used in the first year of application of the SPS.

Notification of transfers

E28. Entitlements can be transferred at any time during the year. You must notify RPA by submitting form RLE1 at least six weeks before you want the transfer to take place. Provided RPA approves the transfer, it will take place on the date you have specified on the form. For a transfer to count for your 2006 application, you will need to notify RPA by 2 April 2006.

E29. **For more detail about transfers – including additional conditions and restrictions, and guidance on how to complete the form – see the *RLE1 Guidance Notes* which is available online or from the Customer Service Centre.**

F Entitlements subject to special conditions

Qualification

- F1. Dairy farmers and farmers who claimed livestock payments without a forage area obligation during the reference period were eligible to apply for entitlements subject to special conditions in 2005 if they had no eligible land, or if the value of their entitlements would have exceeded €5,000 per entitlement.
- F2. Unlike other entitlements, where payment depends on having sufficient eligible hectares at your disposal, to qualify for payments on special entitlements you need to meet certain conditions relating to the number of livestock that you maintain on your holding in the year of claim.

Activating special entitlements for payment

- F3. To activate all of your special entitlements for payment in 2006, you must maintain at least 50 per cent of the level of agricultural activity (expressed in Livestock Units (LUs)) you had during the reference period.
- F4. We have already established this base level of activity for the reference period by calculating the three-year average of the number of animals determined for payment under all of the qualifying schemes expressed in LU equivalents. This calculation was based on the following conversion factors:
- male bovine animals and heifers older than 24 months, suckler cows and dairy cows = 1.0 LU;
 - male bovine animals and heifers aged from six months to 24 months = 0.6 LU;
 - male and female bovine animals below six months of age = 0.2 LU;
 - sheep and goats = 0.15 LU.
- F5. In the case of the Slaughter Premium, if we did not have information on the age of the animal, we converted bulls, steers, cows and heifers into LUs by using a conversion factor of 0.7, and calves by a factor of 0.25.

- F6. Where several payments were claimed on the same animal during the reference period, the LU figure used will have been the average of those that apply for each individual payment.
- F7. If you are also claiming normal entitlements, the level of livestock production required to activate all of your special entitlements will reduce slightly as some of the production in the reference period will be attributed to that land. If, however, you do not reach the threshold to activate all of your special entitlements, you may still be able to activate a proportion of them.

Example

You have two special entitlements and a total LU requirement of 10 (i.e. the calculated average for 2000–2002 was 20 LUs). If you maintain four LUs or less, you will not receive any payment. If you maintain between five and nine LUs, you will receive payment for one special entitlement. If you maintain 10 LUs, you will receive payment for both special entitlements.

- F8. We will contact affected farmers directly to tell them the number of LUs that need to be maintained for each associated special entitlement to activate it for payment.
- F9. The annual calculation of LU values will be based on the conversion factors set out in paragraph F4.

Checks on livestock levels

- F10. Checks will be made to ensure that livestock levels are sufficiently maintained. This can include inspection of livestock records and checking available livestock movement databases. We will check the LU activity maintenance requirement on 31 October.
- F11. Anyone found to have artificially created the circumstances to be eligible to activate their special entitlements will not benefit from any payment, and penalties may be applied.

Transfers of special entitlements

- F12. Special entitlements can generally be transferred in the same way as normal entitlements (see paragraphs E24–E29). However, in the case of purchases, entitlements will only retain their special status if all special entitlements are transferred to a single purchaser at the same time.
- F13. If you transfer in special entitlements that retain their special status, you will also have to maintain the associated agricultural activity requirement of those entitlements to be able to activate them for payment.

Conversion of special entitlements into normal entitlements

- F14. There are three sets of circumstances in which special entitlements will be converted into normal entitlements:
- If you do not confirm (at F1 on the Single Payment Scheme SP5 application form) that you wish your entitlements to retain their special status.
 - If, when completing your field data sheet, you declare more eligible land for the activation of entitlements than is needed to activate your normal entitlements. The surplus will be used to activate the corresponding number of special entitlements for payment. These entitlements will be converted into normal entitlements.
 - If you transfer out special entitlements without transferring all of them to a single purchaser, in one transaction.
- F15. In all cases the conversion of special entitlements into normal entitlements is permanent and cannot be reversed. The number of Livestock Units that you will need to activate your remaining special entitlements for payments will be reduced pro rata to take account of the conversion and/or transfer.

G Authorised entitlements

The need for authorised entitlements

- G1. If you wish to use land growing fruit, vegetables and potatoes (fvp) to activate entitlements you will in most cases need to hold authorised entitlements. You may, however, grow secondary fvp crops on eligible land without authorised entitlements for a limited period (not more than three months from 15 August). However the field area can only be claimed once for SPS in any year.
- G2. Authorised entitlements are exactly the same as normal payment entitlements except that they allow you to use your entitlement to claim against eligible land on which you are growing fvp. Authorised entitlements provide the opportunity to produce fvp and still receive payment under the SPS. However, this is not an obligation and authorised entitlements can also be activated for payment on eligible land where you are growing other crops or which is being retained in GAEC.
- G3. Authorised entitlements were allocated to farmers who applied for them in 2005. Authorised entitlements can now be transferred either by sale, gift, lease or inheritance. In the case of sale or gift, authorised entitlements can be transferred with or without land but, when leased, they must be accompanied by an equivalent area of land.
- G4. If you have a set-aside entitlement with authorisation attached, you can apply to have the authorisation transferred to a normal payment entitlement.

Crops which require authorised entitlements

- G5. If you wish to grow potatoes (other than those intended for the manufacture of potato starch) or any of the following products (referred to in Article 1(2) of Regulation (EC) No. 2200/96), you must have authorised entitlements in order to claim payment under the SPS:
- cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas;
 - carrots, swedes, turnips, salad beetroot, salsify, celeriac, radishes, Jerusalem Artichokes and similar edible roots;
 - cucumbers and gherkins;
 - leguminous vegetables including, for example, fresh peas and beans;

- lettuce (*Lactuca sativa*), (*Cichorium spp.*), cress and other salad vegetables, including mustard grown as a salad crop;
 - alliaceous vegetables including, for example, onions, shallots, garlic, leeks and chives;
 - tomatoes;
 - other vegetables including aubergines, edible mushrooms, marrows, pumpkins, squash, courgettes, celery, spinach or fruits of the genus *Capsicum* or *Pimenta*;
 - herbs including, for example, fennel, parsley, chervil, tarragon and sweet marjoram (*Majorana hortensis* or *Origanum majorana*), coriander and dill;
 - strawberries and other soft fruit considered multiannual crops (see next bullet point); or
 - some fruit and vegetable crops which would be otherwise considered permanent crops but which have been designated as multiannual crops (globe artichokes, asparagus, rhubarb, raspberries, blackberries, mulberries, loganberries, black, white, or redcurrants, gooseberries, cranberries, bilberries and other fruits of the genus *Vaccinium*).
- G6. Crops not normally grown in this country have been excluded from this list. If you wish to grow another crop, contact RPA for confirmation that it is permitted.
- G7. The following can be grown **without** the need for an authorised entitlement:
- sweetcorn;
 - mustard grown for seed;
 - starch potatoes;
 - crops grown as fodder roots (including swedes and roots which would otherwise require an authorisation);
 - herbs (other than those mentioned above) which fall into Chapter 12 of the Customs Classification, including basil, sage and wild marjoram;
 - comfrey; and
 - peas to be harvested dry.
- G8. Rosemary and mints – for example spearmint and peppermint – are permanent crops and are therefore not eligible for the SPS.
- G9. Apples, pears, cherries, plums and nuts are permanent crops and therefore not eligible under the SPS except in certain circumstances (see paragraphs C11–C14).

G10. Code FV1 should only be used for fvp crops which require authorised entitlements and are grown during the 10-month period. Do not use this code if they are only a secondary crop (see paragraph G1), or do not otherwise require authorisation.

FVP crops grown under cover

G11. Land used to grow fvp crops under cover is eligible, provided other conditions of the scheme are met. These include the requirement to keep the land in GAEC and to observe set-aside requirements.

G12. Land which is used as hard standing for pot plants or other containers is not eligible.

H The National Reserve

- H1. The National Reserve was established to support farmers whose business changed during or after the reference period, who as a consequence had a reduced reference amount and therefore a reduced historic element to their entitlements. The National Reserve gave these farmers an opportunity to obtain an increased reference amount. Any increase applies to the historic element of their established entitlements. Allocations from the Reserve were also made to those who qualified as new entrants to farming.
- H2. Any normal entitlements that are not used at least once in three consecutive years will revert to the National Reserve. Additionally, entitlements allocated from the National Reserve or those whose value has been increased by more than 20 per cent because of an allocation from the National Reserve will revert to the Reserve if they are not used for five consecutive years from issue (see paragraphs E12–E13).

Provisions for 2006 dairy reference amounts

- H3. There will be a further increase to the value of entitlements incorporating dairy reference amounts in 2006 as a result of an increase in dairy premium. The three per cent reduction to reference amounts, used to initially fund the National Reserve, will be applied to these dairy increases.

You should **not** complete section F2 of the SPS application form as the outcome of the review of the National Reserve is not yet known. Further details will be made available if there is to be an allocation from the Reserve in 2006.

I Aid for Energy Crops

- I1. This aid is paid on crops grown for the production of energy (heat, electricity or transport fuels). You must apply for this aid by completing columns C8 and C14 on the 2006 SP5 form, but you do not have to be claiming under the SPS to qualify for the aid.
- I2. This aid should not be confused with the grants available under the England Rural Development Programme's (ERDP) Energy Crops Scheme to establish certain perennial crops to be used in heat, combined heat and power or electricity production. The ERDP grants can be claimed in addition to Aid for Energy Crops where the eligibility requirements for both are met.

Land eligibility

- I3. Any land which is not set-aside is eligible for growing energy crops. Any uncropped areas should be deducted from the total field size (see paragraphs C40–C47). If you are claiming SPS please note that this area may be less than the SPS eligible field size.

Eligible energy use

- I4. The crops that may be claimed are those grown for the production of energy products which are either:
 - listed as biofuels in Article 2.2 of Directive 2003/30/EC of 8 May 2003 (see below); or
 - electric or thermal energy produced from biomass.
- I5. The biofuels listed in Article 2.2 of the Directive are:
 - 'Bioethanol': ethanol produced from biomass and/or the biodegradable fraction of waste, to be used as biofuel.
 - 'Biodiesel': a methyl-ester produced from vegetable or animal oil, of diesel quality, to be used as biofuel.
 - 'Biogas': a fuel gas produced from biomass and/or from the biodegradable fraction of waste that can be purified to natural gas quality, to be used as biofuel or woodgas.
 - 'Biomethanol': methanol produced from biomass, to be used as biofuel.
 - 'Biodimethylether': dimethylether produced from biomass, to be used as biofuel.
 - 'Bio-ETBE (ethyl-tertio-butyl-ether)': ETBE produced on the basis of bioethanol. The percentage by volume of the bio-ETBE that is calculated as biofuel is 47 per cent.

- 'Bio-MTBE (methyl-tertio-butyl-ether)': a fuel produced on the basis of biomethanol. The percentage by volume of bio-MTBE that is calculated as biofuel is 36 per cent.
- 'Synthetic biofuels': synthetic hydrocarbons or mixtures of synthetic hydrocarbons which have been produced from biomass.
- 'Biohydrogen': hydrogen produced from biomass, and/or from the biodegradable fraction of waste, to be used as biofuel.
- 'Pure vegetable oil': oil produced from oil plants through processing, extraction or comparable procedures, crude or refined but chemically unmodified, when compatible with the type of engines involved and the corresponding emission requirements.

Off-farm processing

16. For crops which are to be processed off-farm, any agricultural raw material (except sugar beet) which is intended to be primarily used for the production of energy is eligible. You must deliver all raw materials harvested to the first processor. For information on crops which can be used for on-farm processing, see paragraph I20.

Contracts

17. You must have a separate contract with a first processor for each raw material. The originals of these contracts must be dated, signed by both parties and submitted with your application. For biennial, multiannual or permanent crops (where harvesting does not take place each year), a new contract will **not** be required each year. Contracts should cover the period up to and including the processing of the crop at the next harvest.
18. The contract(s) must show:
- the full names and addresses of the parties to the contract, including the grower's main holding number and a space for the RPA reference number;
 - the duration of the contract and the dates of sowing or planting, harvesting, delivery of raw material from the holding and final processing;
 - the species of crop used to provide the raw material concerned, and the area planted with each species in hectares (to two decimal places);
 - any conditions applicable to the delivery of the forecasted quantities of raw materials;

- an undertaking from the farmer and first processor to fulfil their obligations in relation to equivalence (i.e. use of equivalent quantity of raw material within the EU community); and
 - the intended primary end uses for the raw material.
- I9. Contracts must be received by RPA – along with the rest of your Aid for Energy Crops (and where applicable SPS) application – **by the 15 May deadline.**
- I10. However, contracting parties may amend or terminate a contract after this date (or after submission if this was before 15 May) provided that the applicant informs RPA of the amendment or termination no later than 31 May. The original of the amended contract must be dated, signed by both parties and submitted with your notification. If you fail to notify RPA of such an amendment by this deadline, your SPS claim is at risk.

Quantities to be delivered

- I11. For each contract, you will be sent a declaration form (ENC 9). You must use this form to declare to RPA the total quantity of raw materials harvested (by species) and the name and address of the organisation to which deliveries were made.
- I12. The quantities actually delivered must at least correspond to the representative yield. In justified cases, RPA may accept a quantity up to 10 per cent below the representative yield without the loss of aid claimed. Representative yield figures for energy crops will be issued later in the year. These may differ from those for crops grown on set-aside land.
- I13. If, in exceptional circumstances, you are unable to supply all or part of the contracted raw material, RPA may authorise the amendment or termination of the contract provided there is sufficient evidence to justify this. Where the contract is terminated, the Aid for Energy Crops will not be paid. Where the amendment to the contract reduces the land covered by a contract, the Aid for Energy Crops will not be paid for the areas withdrawn from the contract.
- I14. Where amendment or termination of contracts has been authorised, RPA may reduce the total quantities that you are required to deliver, if it seems justified.

Payment

- I15. The payment is subject to a ceiling of 1.5 million hectares throughout the EU. If this ceiling is exceeded, the payment of €45 per hectare will be reduced. The payment is also subject to modulation.
- I16. The aid can be paid once the raw material has been delivered to the first processor and:

- the declaration of total quantity of raw materials has been made;
 - a copy of the contract has been lodged with the first processor's competent authority (if the first processor is in England, RPA is the competent authority);
 - the competent authority has received proof that the full security required from the first processor has been lodged; and
 - the competent authority has checked that the contract meets the requirements set out in paragraphs I7–I10 above.
- I17. For biennial crops, aid can be claimed in each of the two years following the date of the making of the contract, provided that:
- the raw material is delivered and the declaration made on form NFC/ENC 9 in the year in which the crop is harvested; and
 - the requirements in the above paragraph are met from the first year of cultivation (in the second year of cultivation payment can be made without lodgement of security).
- I18. For permanent and multiannual crops, aid can be claimed in each year of cultivation, so long as:
- the raw material is delivered and the declaration made on form NFC/ENC 9 in each year in which the crop is harvested; and
 - the requirements in the above paragraph are met from the first year of cultivation.
- I19. If you fail to deliver the requisite quantity of the raw material and you have not obtained permission to amend your contract, Aid for Energy Crops payments will be reduced in accordance with the penalty provisions set out in paragraph P17.

On-farm processing

Crops for on-farm energy use

- I20. You can use short-rotation coppice and all cereals or oilseeds that are covered by the following CN codes and grown on your land as fuel for heating your agricultural holding, or for the production on your holding of power or biofuels:
- Ex 0602 90 41;
 - 1201 00 90;
 - 1205 10 90;
 - 1205 90 00;
 - 1206 00 91; and
 - 1206 00 99

- I21. Crops grown on your land may be processed into biogas falling within CN code 2711 29 00.
- I22. These activities are allowed by Article 25 of Commission Regulation (EC) No. 1973/2004. Crops must be weighed at a public weighbridge. However, cereals, oilseeds and straw may be measured by volumetric assessment, and must also be denatured by application of a brightly-coloured dye.
- I23. If you wish to take advantage of these arrangements to use crops for one of the on-farm energy purposes above, apply to RPA in writing with full details of your proposal, including relevant technical information concerning the proposed on-farm processing of the crop. It may be necessary for RPA to inspect your processing facilities before making a decision on your application.

Declaration

- I24. If you process on-farm, you must provide a declaration (in place of a contract) that you will use or directly process the raw material covered by your declaration. For biennial, multiannual or permanent crops (where harvesting does not take place each year), a new declaration will **not** be required each year. Declarations should cover the period up to and including the processing of the crop at the next harvest.
- I25. The declaration must be submitted with your application and should contain the following information:
- The duration of the declaration and the dates of sowing or planting, harvesting, delivery of raw material from the holding and final processing.
 - The species of crop used to provide the raw material concerned, and the area planted with each species in hectares (to two decimal places).
 - Any conditions applicable to the production of the forecasted quantities of raw materials.
 - The intended primary end uses for the raw material.
- I26. Declarations must be received by RPA – along with the rest of your Aid for Energy Crops and SPS application – **by the 15 May deadline.**
- I27. However, you may amend or terminate a declaration after this date (or after submission if this was before 15 May), provided that you inform RPA of the amendment or termination no later than 31 May. The original of the amended declaration must be dated, signed and submitted with your notification. If you fail to notify RPA of such an amendment by this deadline, your SPS claim is at risk.

Measurement and accounts

- I28. You must have all the raw material harvested weighed by an operator of a weighbridge who holds a certificate issued under the Weights and Measures Act 1985. In the case of cereals and oilseeds, where either the entire plant or the straw is used, weighing may be replaced by volumetric measurement of the raw material.
- I29. You must keep separate accounts for the raw material used and the products and by-products resulting from its processing.

Controls

- I30. Inspections will be carried out to ensure that the raw material is used or processed on the holding in accordance with the regulations.
- I31. If you are interested in processing crops on farm as part of the Energy Aid Scheme, please contact RPA for further information.

J Protein Crop Premium

- J1. Protein Crop Premium is a separate scheme. You must apply for the premium by completing columns C8 and C14 on the 2006 SP5 form, but you do not have to be claiming under the SPS to qualify for the Premium.

Eligibility

- J2. The Premium may be claimed on any land, but all crops must be sown in line with local standards. This means that the land must be prepared and the seed sown in a manner and at a seed rate that could be expected to produce a normal marketable crop. You should note that the area of a field on which you can claim Premium may differ to the area you can claim for SPS (see paragraphs C40–C47).
- J3. Crops must be maintained in accordance with normal agricultural practice until 30 June (or flowering, if this occurs later). Crops may not be harvested until they reach lactic ripeness. In the UK it is acceptable for proteins to be harvested at a maximum moisture content of 30 per cent (i.e. harvested dry) in order to meet this requirement.
- J4. Where protein crops are sown in a mixture with cereals, you must be able to prove that the protein crops are the main crops in the mixture in order to receive the Premium. As evidence of the mix, you should retain seed labels, seed invoices and sowing records. In the event of an inspection, we may ask to see this evidence in addition to making a physical assessment of the crop.
- J5. Protein crops are defined as:
- peas falling within CN code 0713.10;
 - field beans falling within CN code 0713.50; and
 - sweet lupins falling within CN code ex 1209 29 50.

Payment

- J6. For 2006, the Premium will be paid at €55.57 per hectare.
- J7. There is an EU Maximum Guaranteed Area (MGA) of 1.6 million hectares which, if applied, may lead to payments being reduced.

K Area Payment for Nuts

K1. The Area Payment for Nuts is separate to the Single Payment Scheme and may be claimed on any orchard growing nuts that satisfies the criteria below. You must apply for the payment by completing columns C8 and C14 on the 2006 SP5 form. The area of land you use to claim Area Payment for Nuts is unlikely to also be eligible for SPS. However, in some circumstances orchards may be eligible for both schemes (see paragraphs C11–C14).

Eligibility

K2. Eligible nuts are:

- almonds falling within CN codes 0802 11 and 0802 12;
- hazelnuts or filberts falling within CN codes 0802 21 and 0802 22;
- walnuts falling within CN codes 0802 31 and 0802 32;
- pistachios falling within CN code 0802 50; and
- locust beans falling within CN code 1212 10 10.

K3. Orchards must be a minimum plot size of 0.1 hectares and a minimum tree density (per hectare) applies as follows:

- 125 for hazelnuts;
- 50 for almonds;
- 50 for walnuts;
- 50 for pistachios; and
- 30 for locust beans.

K4. An orchard is defined as 'an unvarying and geographically continuous area which is not divided by other crops or plantations'. **Isolated nut trees or a single row of nut trees planted alongside roads or other crops are not considered to be an orchard.** Other trees – including chestnuts – present within an orchard will not necessarily prohibit a claim for aid, provided they do not exceed 10 per cent of the density required.

Payment

K5. The average payment will be €120.75 per hectare unless the payment ceiling (based on a National Guaranteed Area of 100 hectares for the UK) is exceeded, in which case payments will be reduced.

L Less Favoured Area Support

- L1. A new upland reward structure is currently being designed which will provide support for Less Favoured Areas (LFAs). This will replace the Hill Farm Allowance (HFA). The scheme will form part of the new England Rural Development Programme (ERDP), which will run from 2007 to 2013. Subject to decisions being made, support will be paid in 2007 if you submit an SP5 application form in 2006 and satisfy the rules of the new LFA Support scheme. You do not need to claim the Single Payment in order to qualify.
- L2. Ministers will decide what format the new scheme will take following public consultation, which began in February 2006. Once agreed, the rules of the scheme will be set out in the *Less Favoured Area Support explanatory booklet 2007*. This will be available online or from the Customer Service Centre (see Part U for contact details). However it will not be published until after the consultation. This will be **after** the deadline for submission of the SPS 2006 application form.
- L3. We accept that you will not have a chance to understand the new scheme rules until after you have submitted your claim. However, it is necessary for us to capture and complete validation of the land information in order to process claims for payment. We will therefore write to you once the scheme rules are known and will ask you to sign a new declaration to confirm that you still wish to claim and can comply with the rules. If you would like to withdraw your claim once the rules are known, you may do so.
- L4. In order to claim LFA Support in 2007, you will need to:
- read and understand the *Less Favoured Area Support explanatory booklet 2007* when it becomes available;
 - read and understand this handbook;
 - submit an SP5 2006 application form.

Completing your SPS application form

- L5. To claim LFA Support for 2007, you will need to complete section F3 of the SP5 application form and columns C8 and C14 in the field data sheet. The forage land use types codes eligible for inclusion in column C8 are PP1, TG1, PP2, PP4 and TG3 (see paragraphs N24 and N25 for land use description).

- L6. You must ensure that you declare all eligible LFA and non-LFA parcels so that we can correctly determine your stocking density. The land use codes you use in column C8 and the areas you declare in column C14 of the field data sheet will determine whether or not you are eligible for payment. You will also need to complete Part D of the SP5 form in respect of any LFA and non-LFA common land rights that you hold.
- L7. In section F3 of the form, you will also need to enter:
- the number of eligible breeding cows (suckler cows) that you intend to keep for the required six-month period (see below); and
 - the number of eligible breeding sheep that you hold or intend to keep on your holding for the required 100-consecutive-day period (see below).

Cattle eligible for LFA support

- L8. Cattle that are eligible for LFA support are those that form part of a herd used for rearing calves for meat production only; dairy herds are not eligible. The following conditions must be met:
- Cattle must be female and of either a beef breed or a crossbreed (which is the offspring of a cross with at least one parent being a beef breed or a beef/dairy cross).
 - The cattle must be owned or leased by you under a formal leasing agreement (which must be produced upon request) and you must also have economic responsibility for them.
 - You must keep all the cattle on which you are claiming (or their eligible replacements) on your holding for a 6-calendar-month retention period. For HFA 2006, the retention period can start from a date between 1 July 2005 and 31 December 2005.
 - At least 60 per cent of the cattle included in the stocking density calculation must have calved. The other 40 per cent can be made up of heifers over eight months old which have not calved. The number of heifers must not exceed 40 per cent of the total cattle included in the calculation.
 - The cattle must be entered into your records, which must comply with the Cattle Identification Regulations 1998, be kept up to date, and be available for inspection.

Sheep eligible for LFA support

L9. Any female sheep are eligible provided they:

- formed part of a flock kept on the holding for any 100-consecutive-day period starting between 1 January 2005 and 22 September 2005;
- were at least 12 months old or had given birth to a lamb by the end of that period;
- were owned by you, or formed part of a formal agreement leasing them to you (which must be produced upon request); and
- were entered into your records – which must meet SAGIMO requirements, be kept up to date and be available for inspection.

M Special rules for hemp grown for fibre

- M1. Any parcels of land (including set-aside land) which are used to grow hemp for fibre or other purposes must be declared on your SPS application. RPA can provide a list of the varieties of hemp that may be grown under the SPS.

Home Office licence

- M2. You must obtain a licence from the Home Office if you intend to grow hemp. It is a criminal offence to cultivate hemp in the UK, for any purpose, without such a licence. Unless you have made separate arrangements with the Home Office, an application for a licence should be made to:

Home Office
Drugs Branch (Licencing Section)
6th Floor, Peel Building
2 Marsham Street
London SW1P 4DF
Telephone: 020 7035 0483
Fax: 020 7035 6161

- M3. You should apply for a Home Office licence as early as possible. Licences are not issued automatically. The Home Office will consider why and where you plan to grow hemp, and you may be asked to provide evidence that you have a contract to supply the hemp to a Home Office-approved processor.

Contracts and seed labels

- M4. You must supply with your SPS application an original copy of the contract concluded with an authorised primary processor or a commitment to process. If the processing is not carried out, or you do not follow any of the special rules for hemp, penalties for non-compliance will be applied.
- M5. You must use certified seed of one of the eligible varieties. You will need to supply the original official seed labels, confirming the variety, along with your SPS application. RPA will return these labels to you. When sowing takes place after 15 May, these documents must be submitted no later than 30 June.

Sampling and testing

- M6. Under EC rules, the UK must sample and test 20 per cent of all applications which include hemp, 20 per cent of the total area of hemp and all varieties of hemp grown. This is to ensure that the tetrahydrocannabinol (THC) content of the crop is below the level prescribed by the EC legislation. For each variety sown, you must maintain three distinct parts of each field claimed, each part comprising at least 4,000 plants, until at least 10 days after flowering. You must not harvest these areas until sampling has been completed or until you have received a written notification from RPA stating that sampling is not necessary.

N The application form

Your completed form must reach RPA by midnight
on 15 May 2006 to avoid late claim penalties.

If you farm land in England

- N1. You can use form SP5 to apply for:
- the Single Payment Scheme (SPS);
 - the Area Payment for Nuts;
 - Aid for Energy Crops;
 - the Protein Crop Premium; and
 - Less Favoured Area Support 2007.

If you also farm land in Scotland, Wales or Northern Ireland

- N2. You should complete the relevant application form(s). If you have not received the forms you need, contact the RPA Customer Service Centre (CSC) (see Part U for contact details). You are responsible for ensuring that you have the correct application forms for your land.
- N3. You should return your completed forms together to one paying agency. For example, if most of your land is in England, you should return your forms to RPA. They will then be processed as a single application, generating a single payment in respect of all your land in the UK.

Completing the SP5 form: dos and don'ts

- N4. Please take particular note of the following dos and don'ts when completing the application form.
- **Do** read document DMU1, which gives tips for filling in RPA forms (one is included in your SPS pack).
 - **Do** make sure you use a 2006 SP5 application form.
 - **Do** use original forms. If you need extra copies, contact the CSC.
 - **Do** declare **all** the agricultural land on your holding for cross compliance purposes, even if you are not planning to activate all your entitlements. There are penalties for failing to declare all your agricultural land, whether or not it is eligible for the SPS (see paragraphs P5 and P6).

- **Do** make sure that only one partner applies on behalf of a partnership. The partner applying must obtain written authorisation from the other partner(s) on form SP9, which must be submitted with your application. You should receive an SP9 form with your application pack. If you have not received a form, contact the CSC.
 - **Do** authorise your agent to apply on your behalf. If you do this, your agent will need to send in form SP9 with the application.
 - **Do** submit your form in time for it to reach RPA by midnight on 15 May to avoid late claim penalties.
 - **Do** tell RPA if you have an interest in any other business, whether it is in England or any other region of the UK, which is claiming under the SPS (see paragraph B6–B10).
 - **Do** make sure that any field data sheets you produce on your own computer show the same information in the same format as Part C of the pre-printed form and include your Single Business Identifier (SBI) on each page.
 - **Do** remember to complete column C10 to show that you want to activate entitlements against a particular parcel and/or D10 to activate against common land.
 - **Do** complete C8, C14 and F3 and Part D of the application form if you wish to claim Less Favoured Area Support.
 - **Do** read the crop code lists carefully, as there have been changes.

 - **Don't** use photocopies, as they cannot be processed.
 - **Don't** use correction fluid. If you make a mistake, cross it out and initial and date the correction.
 - **Don't** remove any pages from the application form. If you need to add any pages, place them at the back of your application. Do not staple them to the form.
 - **Don't** forget to complete column C10 to show you want to activate entitlements against a particular parcel.
 - **Don't** forget to read and sign the Declarations and Undertakings (Part I).
- N5. Check the pre-printed information carefully. This could be words, figures or a cross in a box . Where the data shown is correct, you should not re-enter the information. Where the data shown is incorrect, you should enter the correct information in the box below the pre-printed data or, where applicable, mark a different box . The only exception to this is Part A (see paragraph N8 on the following page).

Errors

- N6. If you realise you have made a mistake in your form after sending it, you should notify RPA at once. For more information about how RPA will deal with errors, see Part P.

Completing the form: a step-by-step guide

- N7. Cross-references are to guidance in this handbook unless indicated otherwise.

Part A: Claimant details

- N8. You **must** complete the copy of the form provided, even if some of the pre-printed claimant details are incorrect. You **must** hand-write the correct information on the form next to the incorrect details. You **must** also contact the CSC before submitting your claim and ask for the incorrect information to be updated.
- N9. Payments will be made to the business bank account that you have registered with the CSC. If you want correspondence to be sent to an address other than the address that appears on this form, contact the CSC.

A1 Interest in other farming businesses

- N10. You must cross this box if you have any interest in any other farming business within the UK. See paragraphs B6–B10 for more information.

A2 Payment details

- N11. If you want to change the currency in which you are paid, you should cross the relevant box. If you are changing from sterling to euros, you must advise the CSC of your UK euro bank account details.

Part B: Land use

B1 Selection of 10-month period

- N12. Read Section D before answering. If you do not enter a date, you will be allocated a start date of 1 February 2006.

B2 Set-aside

- N13. If you hold set-aside entitlements, read the following pages of the *Set-aside Handbook and Guidance for England 2006 edition* before answering:

- p.12 (on special rules for organic farmers); and
- p.15 (on plot sizes and set-aside strips).

B3 Hemp

N14. If you grow hemp, read Part M of this handbook before answering.

Part C: Field data sheet

N15. If the pre-printed data is correct, you should not re-enter the information. If the data is incorrect, you should enter the correct information in the box below the pre-printed data. Use blank rows to add additional land parcels. An example of a correction is provided overleaf.

N16. Use a separate field data sheet for each County/Parish/Holding (CPH) number or English area. If you need to correct the English area at the top of the field data sheet, use the relevant code from the following list:

- England outside the upland SDA – use 'EOUT'
- English upland SDA – use 'ESDA'
- English moorland within the upland SDA – use 'EMOR'

If you use a field data sheet produced on your own computer, make sure it shows the same information in the same format as Part C of the pre-printed form and includes your SBI on each page.

C1 For farmer's own use

N17. You can use this column to add your own field names or references.

C2 Ordnance Survey (OS) map sheet reference and National Grid (NG) field number

N18. If the pre-printed data is correct, you should not re-enter the information. If the data is incorrect, delete the line by crossing the appropriate box at C3 and enter the correct information on the next available blank line.

C3 Mark to delete line

N19. Cross the box to delete the line if you wish to remove the field from your application, e.g. because it is no longer part of your holding. However, if you wish to split a parcel or amalgamate two or more parcels, cross the box to delete the old information and **ensure you enter the new details** on the first blank line(s) available. Make sure that each part of the field is given an OS map sheet reference and an NG field number. If the change to the field is permanent, a form RLE1 must be submitted with the application as well as a supporting map (see paragraph C48).

C4, C5 and C6 Total field area (ha) and part-field area/suffix

- N20. If the pre-printed data is correct, you should not re-enter the information. If the data is incorrect, you should enter the correct information in the box below the pre-printed data. Alternatively, you can delete the line and enter the correct information on the first blank line(s) available.
- N21. You need to make sure that all the agricultural land on your holding in England is included in C4.
- N22. The sum of the part-field areas indicated in C6 must not exceed the total field area indicated in C4.

C7 Land use category 2003

- N23. If the pre-printed code is incorrect, enter the correct code from the list below.

Land use at 15 May 2003	Crop or cover code
Permanent pasture	PP1
Permanent crop	PC1
fvp	FV1
Other crop (including temporary grassland)	OT1
Land in non-agricultural activity	NA1
Forest*	FR1
* 'Forest' includes woodland, but for woodland that was used to fulfil your set-aside obligation in 2003, use code OT1.	

C8 Land use category 2006

- N24. Enter the appropriate code from the list on pages 62-64 for the crop or cover for each land parcel as at 15 May 2006, except where fvp crops have been grown on the land during the 10-month period, in which case you should enter code FV1.
- N25. If the land use changes after 15 May 2006 but before the 10-month-period for the land parcel expires, and the change in land use may affect the eligibility of the land parcel for payment (for example if fvp crops are planted – but not as a secondary crop), you must notify RPA in writing.

CPH of this sheet: 12/123/1234 English Area: Non SDA

Basic Field Data

C1	C2	C3	C4	C5	C6	
For farmer's own use	OS Map Sheet Ref	National Grid field number	Mark to delete line	Total field area (hectares)	Part field suffix	Part field area (hectares)
	AB1234	1234	<input type="checkbox"/>	45.20		
	AB1234	6789	X	22.41		
	AB1234	7890	<input type="checkbox"/>	15.06		
	AB1234	8912	<input type="checkbox"/>	17.02		
	AB 2 3 4 6 7 8 9		<input type="checkbox"/>	22.41	A	16.00
	AB 2 3 4 6 7 8 9		<input type="checkbox"/>	22.41	B	6.41
			<input type="checkbox"/>			

C7 Land use category 2003	C8 Land use Category 2006	Single Payment Scheme		Set-Aside (Non-Food use)			Other Aid Payments C14 Area claimed for Nuts, Energy Crops, Protein Crops and LFA	ELS/OELS C15 Indicate if Rotational Option
		C9 Which 10 month period from B1 applies, A or B	C10 Area for which entitlements to be activated (ha) (land which meets 10 month requirement)	C11 Crop Grown Crop code Variety	C12 Frequency of harvest (intervals in months)	C13 Growing period		
0T1	S A I	A	45.20			MM-MM		<input checked="" type="checkbox"/>
0T1		A	EXAMPLE OF A ZONE WHICH HAS BEEN DELETED AND IS NOW A SPLIT FIELD BELOW					<input checked="" type="checkbox"/>
0T1	P E I	A				MM-MM		<input checked="" type="checkbox"/>
PP1	P P I	A	19.02			MM-MM		<input checked="" type="checkbox"/>
071	N F I	B	16.00	001	05	05-10		<input checked="" type="checkbox"/>
071	7 Q I	B	8.00			MM-MM		<input checked="" type="checkbox"/>
						MM-MM		<input checked="" type="checkbox"/>
Set-aside area			61.20 ha					
Area under FVP Crops			0.00 ha					
All other eligible land			20.02 ha					

Totals for this sheet from Column C10:
 The areas that you enter in Column C10 of the field data sheet should be used to complete Part E of the application form. To help you do this, you can use the total boxes at the bottom of each sheet and summarise the results in the table provided. These totals do not form part of your application. We will rely on the information given for each land parcel.

Land use codes 2006			
Set-aside and non-food crops	Crop/ cover code	Eligible for SPS	Entry needed in C14
Non-food crops grown on set-aside land	NF1	Y	N
Non-food crops grown on set-aside land in multiannual agreements	NF2	Y	N
Agri-environment land in set-aside	SA3	Y	N
EU Farm woodland-type schemes on set-aside land	SA2	Y	N
<i>If your land does not fit into the four categories above, use code SA1:</i>			
All other set-aside	SA1	Y	N
Permanent pasture			
Permanent pasture in an agri-environment scheme	PP4	Y	Y*
Permanent pasture used for dehydrated fodder	PP3	Y	N
Permanent pasture in conversion (where you have been instructed by RPA to convert back to permanent pasture)	PP2	Y	Y*
<i>If your land does not fit into the three categories above, use code PP1:</i>			
All other permanent pasture (including grazed woodland and orchard on which you are claiming SPS)	PP1	Y	Y*
Temporary grass			
Temporary grass in an agri-environment scheme	TG3	Y	Y*
Temporary grass used to make dehydrated fodder	TG2	Y	N
<i>If your land does not fit into the two categories above, use code TG1:</i>			
All other temporary grass	TG1	Y	Y*

Energy crops on non-set-aside land	Crop/cover code	Eligible for SPS	Entry needed in C14
Energy crops used for transport fuel	EC8	Y	Y
Energy crops used for heat and power	EC7	Y	Y
Energy crops – sunflower seeds covered by CN code 1206 00 99	EC6	Y	Y
Energy crops – sunflower seeds covered by CN code 1206 00 91	EC5	Y	Y
Energy crops – colza seeds covered by CN code 1205 90 00	EC4	Y	Y
Energy crops – colza seeds covered by CN code 1205 10 90	EC3	Y	Y
Energy crops – soya beans covered by CN code 1201 00 90	EC2	Y	Y
Energy crops – short-rotation forest trees covered by CN code 0602 90 41	EC1	Y	Y
Protein Crop Premium			
Field beans eligible for Protein Crop Premium	FB1	Y	Y
Peas eligible for Protein Crop Premium	PE1	Y	Y
Sweet lupins eligible for Protein Crop Premium	SL1	Y	Y
Nuts			
Almonds	NT3	N	Y
Hazelnuts	NT1	N	Y
Pistachios	NT4	N	Y
Walnuts	NT2	N	Y
Other crops			
Flax	FL1	Y	N
Hemp	HM1	Y	N
Hops	HO1	Y	N
Dehydrated fodder crops	DF1	Y	N
fvp**	FV1	Y	N
Permanent crops	PC1	N	N

Forest/woodland	Crop/ cover code	Eligible for SPS	Entry needed in C14
Forests	FR1	N	N
Farm Woodland Premium and Farm Woodland schemes	FR3	N	N
Land afforested that was permanent pasture on 15 May 2003	FR4	N	N
Grazed woodland and orchard on which you are claiming SPS	PP1	Y	Y*
General			
Land in non-agricultural activities for more than 28 days which would otherwise be eligible for SPS	NA1	N	N
Eligible land not in production (e.g. GAEC 12)	OT2	Y	N
Other (including protein/energy crops where you do not want the additional premium)	OT1	Y	N
Other non-eligible crops	NE1	N	N
Land in agri-environment schemes such as stone curlew plots (but not strips or margins as they need not be recorded separately)	AE1	Y	N
*If you are claiming LFA Support			
**To be eligible for SPS on land growing fvp you need an authorised entitlement for every hectare			

C9 SPS: Which 10-month period applies

N26. Indicate one date only for each parcel (see Part D). The 'A' option is pre-printed. Where you wish to opt for option B, write 'B' in the box below. If you are entering a new or a split land parcel you should enter 'A' or 'B' in the box provided.

C10 SPS: Area (hectares) for which entitlements to be activated for payment

N27. To claim under the SPS you must indicate the area of land on which you wish to activate entitlements. To avoid penalties you must ensure that:

- the area is eligible for SPS (see Part C);
- the land is at your disposal for at least the 10-month period (see Part D);

- the area activated does not exceed the area declared in C4 (less any ineligible areas such as ponds or metalled paths) and is accurately measured; and
- the box is completed in hectares (to two decimal places).

C11 Set-aside (non-food use): crop grown (crop code and variety)

N28. Enter the crop and variety codes for any non-food crop you are growing on set-aside land from the list below. Full details on growing non-food crops on set-aside land are given in Section F of the *Set-aside Handbook and Guidance for England 2006 edition*. Note that this table includes some new codes. You should use the information in C11 to complete the delivery declaration form (NFC/ENC9).

Description	Crop code	Variety code
00 Rapeseed spring sown	RA	1
00 Rapeseed winter sown	RA	2
Abyssinian mustard (Crambe)	CR	1
Angelica	AN	1
Barley	BA	1
Blue chamomile	BC	1
Borage seed	BS	1
Calendula (pot marigold)	CA	2
<i>Camelina Sativa</i>	CS	1
Carroway	CA	1
Catnip	CN	1
<i>Echinacea Angustifolia</i>	EA	1
<i>Echium</i>	EH	1
English chamomile	EC	1
Evening primrose	EP	1
German chamomile	GC	1
HEAR rapeseed spring sown	RA	3
HEAR rapeseed winter sown	RA	4
<i>Helichrysum Italicum</i>	HC	1
Hemp	HE	1
HOLL rapeseed spring sown	RA	5
HOLL rapeseed winter sown	RA	6
<i>Hyssopus officinalis</i>	HY	1

Description	Crop code	Variety code
Lemon balm	LB	1
Linseed spring sown	LN	1
Linseed winter sown	LN	2
Lunaria	LU	1
Marjoram	MJ	1
Meadowfoam	MF	1
<i>Miscanthus</i>	MI	1
Oats	OA	1
Peppermint	PM	1
Poppies	PO	1
Roman chamomile	RC	1
Rosemary	RM	1
Short-rotation coppice	CO	1
Spearmint	SP	1
St John's Wort	JW	1
Straw	ST	1
Sunflower	SU	1
Triticale	TR	1
Valerian	VA	1
Wheat	WH	1
Yarrow	YA	1

C12 Set-aside (non-food use): frequency of harvest

N29. Enter the number of months between harvests. Use two digits: for example, if there are six months between harvests, enter '06'.

C13 Set-aside (non-food use): growing period

N30. Specify the months when the non-food crops will be in the ground. Months should be shown as numbers, e.g. January to November should be written as 01–11.

C14 Area claimed for other aid schemes

N31. Enter the total eligible area of each field on which you wish to claim Area Payment for Nuts, Aid for Energy Crops, Protein Crop Premium or Less Favoured Support 2007.

C15 Rotational option

N32. Cross the box for any field that is being used this year for a rotational option under Environmental Stewardship, Entry Level Scheme and Organic Entry Level Scheme. The relevant options are: EF6, EF8, EF9, EF10, EG1, EG4, EG5, EJ2, OF6, OF8, OG1, OG4, OG5, OJ2.

Part D: Common land grazing rights

N33. Complete this part if you are activating entitlements on common land (see Part B) or claiming common land for Less Favoured Area Support (see Part L).

N34. If the pre-printed data is correct, you should not re-enter the information. If the data is incorrect, you should enter the correct information in the box below the pre-printed data. This applies to columns D1–D4. See separate guidance for columns D5 and D7.

D1 Common land name

N35. Enter the full official name of the common you farm. This will be listed in the Common Land Register held by the local authority responsible for the common. If you need to correct or add to the pre-printed data, you must leave spaces between words.

D2 CL number

N36. Enter the specific CL number for each common. This will be listed in the Common Land Register held by the local authority responsible for the common.

D3 Type of commons rights

N37. Refer to the following list if you need to correct or add to the pre-printed data.

Description	Crop code	Livestock Unit value
Cattle	CTTLE	1.0
Donkeys	DNKYS	0.6
Estovers for agricultural use	ESTOV	0.4
Gates/gaits	GAITS	1.5
Geese	GEESE	0.04
Goats	GOATS	0.15
Heifers/stirks	HEFER	0.6
Horses	HRSES	1.0
Other poultry (over six months)	PLTRY	0.02
Pannage	PNNGE	0.3
Pigs	PIGS	0.3
Ponies	PONY	0.6
Sheep	SHEEP	0.15
Stints	STNTS	2.0

N38. Estovers can only be claimed for SPS if they refer specifically to the cutting of bracken for livestock bedding.

N39. If you are claiming gates or stints as rights, you must explain the equivalent value used by each common (e.g. one stint = the right to graze five sheep) as defined in the Common Land Register. You should submit this information with your application so that the actual value of your rights can be calculated.

D4 Number of rights of this type

N40. If you need to correct or add to the pre-printed data, enter the number of rights you hold (to two decimal places).

D5 Which 10-month period applies

N41. Indicate one date only for each line (see Part D). Where we can, we have pre-printed option 'A'. Where you wish to opt for option 'B', write 'B' in the box below. If you are entering a new, or split, land parcel, you should enter either 'A' or 'B' in the box provided.

D6 Activating entitlements for payment

N42. Cross the box if you wish to activate entitlements for payment for these rights.

D7 Are you the owner of the common?

N43. If the pre-printed answer is incorrect, cross the other box. You should also notify the CSC. If you own the entire common, you may be able to claim surplus rights (see paragraph B11).

Part E: Claim for single payment

E1–E5

N44. These columns may be pre-printed with information about your allocated entitlements. If the pre-printed data is correct, you should not re-enter the information. If the data is incorrect or incomplete, you should enter the correct information (from your most recent entitlement statement) on the next blank line(s) available.

The codes to use for the different types of entitlement are:

Normal	NML
Set-aside	SAS
Special	SPE
English Reserve	ERS
Normal (with fvp authorisation)	NMF
Set-aside (with fvp authorisation)	SAF
English Reserve (with fvp authorisation)	ERF

See Part E for more information about types of entitlement.

N45. The 'Use by date' in E5 shows the last scheme year in which the entitlements must be activated under the usage rule, otherwise they will be taken into the National Reserve. See Part E for more information about the usage rule.

E6 Activate entitlements

N46. Cross the box if you are activating the whole block of entitlements for payment. Otherwise, specify the number you are activating.

N47. See Part E for more information about activating entitlements.

Part F: Additional scheme information

F1 Activation of entitlements subject to special conditions

N48. Cross the box if you wish to retain entitlements subject to special conditions rather than having them revert to normal entitlements.

F2 National Reserve application

N49. **Do not** complete this box. The outcome of the review of the National Reserve is not known at the time of going to print.

F3 Less Favoured Area Support 2007

N50. You must answer these questions if you wish to claim Less Favoured Area Support in 2007 (see Part L). There is no other application form for this scheme.

Part G: Cross compliance

N51. See the *Cross Compliance Handbook for England 2006 edition* for further information.

G1 and G2 SMRs and GAECs

N52. Cross the box against any SMRs or GAECs that apply to you.

G3 Conversion of permanent pasture

N53. Cross the box if you plan to convert permanent pasture to some other land use during 2006 (or have already done so this year).

G4 Livestock on the holding

N54. You must account for all the livestock on your holding, for example sheep, horses, cattle, outdoor pigs, goats, farmed deer and llamas.

Part H: Supporting documents

N55. State the number of supporting documents you are sending. Make sure your Single Business Identifier (SBI), business name and address are clearly indicated on all supporting documents.

Part I: Declarations and undertakings

N56. We will not accept forms where the declarations and undertakings in Part I have been altered, or which have not been signed and dated. If you are signing as an agent or partner, you will need to submit form SP9 authorising you to make this application.

Sending the form

N57. It is your responsibility to ensure that your correctly completed application is received at RPA by the deadline of midnight on 15 May in order to avoid late claim penalties. If your application is received after midnight on 9 June, it will be rejected.

N58. If you post your application, you do so at your own risk. You should ensure you pay sufficient postage for the weight of the package and you are advised to keep proof of postage which clearly identifies that the item sent to RPA is your SPS application. As the deadline approaches you may decide to use another method of delivery other than the postal service.

N59. You should receive acknowledgement of receipt of your application by RPA within 10 working days. This receipt does not mean that your application is complete or correct, only that it has been received.

Payment

- O1. The payment window for SPS 2006 runs from 1 December 2006 until 30 June 2007. Payment will normally be made by BACS (or by payable order if you do not have a BACS facility). If you wish to arrange BACS payment, contact the Customer Service Centre.
- O2. Payment can be made in either sterling or euros. Your application form will be pre-printed at A2 with your choice from last year, but you may choose to change currency this year. All direct aid schemes will be paid in your chosen currency and you will not be able to change currency until you make your application in a subsequent scheme year. If you wish to receive payments in euros, you must have a UK euro bank account and inform the Customer Service Centre of the details.
- O3. Rules on how to convert euro rates into the national currencies of member states that do not use the euro are detailed in EU regulations. The regulations allow the European Commission to set in advance the date on which the exchange rate will be calculated. For 2006, the rate for all schemes will be calculated on the last working day of September.

New payment pattern (progressive modification)

- O4. The fixed amount ('the ceiling') available to make payments under the SPS in England is based on the amount of subsidy paid in the reference period. The final value of the flat rate payment in each of the three English areas (see paragraph A6) has been calculated by dividing the ceiling by the number of eligible hectares declared in that area (after relevant deductions, for example for the National Reserve).
- O5. The flat rate area payment is being introduced over an eight-year period through 'progressive modification'. In 2005, only 10 per cent of the ceiling was used for the flat rate element of payment. The remaining 90 per cent of the ceiling was used to top up the flat rate payment in proportion to your historic reference amount. For 2006, these rates will be 15 per cent and 85 per cent respectively. These proportions will continue to change over the next few years as shown in the following table.

Year	Percentage of regional ceiling used to fund the:	
	Flat rate element	Historic element
2005	10	90
2006	15	85
2007	30	70
2008	45	55
2009	60	40
2010	75	25
2011	90	10
2012	100	0

Modulation

O6. Modulation is a mechanism that allows direct payments to be reduced. The amount raised is matched by the Government and used to fund agri-environment schemes. The UK has applied modulation to direct payments since 2001. All payments you receive under the following schemes will be subject to modulation deductions:

- the SPS;
- the Area Payment for Nuts;
- the Protein Crop Premium; and
- Aid for Energy Crops.

O7. The modulation rate is the percentage of payment which is taken to fund agri-environment schemes. It is made up of two elements: one is fixed by the EU and the other is an additional national modulation rate levied by the Government.

O8. These rates will change over time, as shown in the table below.

Year	Compulsory EU modulation rate	Additional national modulation rate	Overall modulation rate
2005	3%	2%	5%
2006	4%	6%	10%
2007	5%	Not yet set	Not yet set

- O9. If your land lies across a border between England and Scotland/Wales, or you have separate land in Scotland/Wales as well as in England, the additional national modulation rate applicable in each region will apply to the respective areas of land.
- O10. From the 2006 scheme year, modulation deductions will be made from your direct payments after any penalty reductions (except penalties resulting from cross compliance breaches). However, the first €5,000 of your payment is effectively exempt from EU modulation: the modulation amount deducted from this €5,000 will be repaid as an additional amount of aid before 30 September 2007. A UK ceiling of €23.6 million has been set for this additional aid in 2006, so repayments may be reduced if this ceiling is breached. This exemption applies to EU modulation only, and not to any additional national modulation.

P Penalties for late or incorrect applications

- P1. Penalties may be applied if your application:
- is submitted after the deadline (midnight on 15 May 2006);
 - is found to be in breach of the scheme rules; or
 - fails to meet the requirements relating to cross compliance, including set-aside management rules.
- P2. In limited circumstances, if you submitted factually correct information or can show that you are not at fault, your claim will be adjusted to reflect your actual situation and penalties will not be applied. See paragraphs P30–P38 for more information. Otherwise, apart from cases of *force majeure*, exceptional circumstances or obvious error, RPA has no discretion to waive these penalties.

Late applications

- P3. Except in cases of *force majeure* and exceptional circumstances, the amount you receive (based on the entitlements you activate that year) will be reduced by 1 per cent for each working day after the 15 May deadline until your application is received.
- P4. Late applications can be submitted only up to 25 calendar days late. Applications received after this deadline will be inadmissible: no SPS payments will be made, and entitlements will be considered unused for that year. See paragraphs E10–E14 for more information on the usage rule.

Example

An application received on 25 May is 10 calendar days/8 working days late. Payment will be reduced by 8 per cent of the overall amount due.

Breaches of scheme rules

Failure to declare all the agricultural land on your holding

- P5. You must declare all the agricultural land on your holding, whether or not it is eligible for the scheme (i.e. not just the land on which you are claiming the SPS). If you fail to do so, the payment you receive in respect of activated entitlements may be reduced. If you

have any doubt as to which areas you should declare, you should seek independent legal advice.

- P6. If there is a difference between the area you actually declared on your application and the area you ought to have declared, reductions in payment will apply as follows:
- difference of up to 3 per cent – no reduction in payment;
 - difference of more than 3 per cent and up to 20 per cent – 1 per cent reduction;
 - difference of 21 per cent to 50 per cent – 2 per cent reduction; and
 - difference of more than 50 per cent – 3 per cent reduction.

Example

The total area of agricultural land on your holding is 110 hectares. You declare 50 hectares on your SPS application. The difference is more than 50 per cent of the total area of your holding, so your total SPS payment will be reduced by 3 per cent.

Discrepancies in respect of areas declared

- P7. It is not possible to receive payment on an area greater than that stated in your application. If the area of a crop group is determined ('found') to be greater than that declared on your application, the area you have declared will be used to calculate your payments. For the purposes of SPS, the crop groups are:
- SPS eligible areas;
 - energy crops;
 - protein crops; and
 - nuts.
- P8. Where the determined area is lower than the declared area, entitlements with the highest value will be attributed to the determined area first, followed by those with lower value. Set-aside and other payment entitlements will be treated separately.
- P9. If land you declare as set-aside is found not to have been set aside, that area will be considered 'not determined' and will be deducted from your overall declared area.
- P10. If there is a discrepancy between the payment entitlements activated and the area declared, payment will be calculated on the lower area.

Discrepancies within crop groups

- P11. **If the area determined for a crop group is less than that declared, payment will be calculated on the basis of the area determined.** This will then be reduced by twice the difference

determined if the difference between the area declared and the area determined is more than either 3 per cent or 2 hectares, but not more than 20 per cent of the determined area. **If the difference is more than 20 per cent of the determined area, no payment will be made for the crop group concerned.**

Example 1

The SPS eligible area is declared as 100 hectares but is determined to be 98 hectares. No reduction will apply since the difference is not more than 3 per cent (of 98 hectares) or 2 hectares, but payment will be based on 98 hectares.

Example 2

The protein crops area is declared as 20 hectares but is determined to be 17 hectares, a difference of 3 hectares (17.65 per cent of 17 hectares). Payment will be based on 17 hectares – 6 hectares (3 hectares x 2) = 11 hectares.

Example 3

The SPS eligible area is declared as 250 hectares but is determined to be 198 hectares, a difference of 52 hectares (26.26 per cent of 198 hectares). No payment will be made.

Discrepancies across crop groups

P12. If the area declared on the application exceeds the overall area (all crop groups) actually determined by more than 30 per cent, you will not receive any payment in that year under the SPS or any other schemes covered by the application (excluding Less Favoured Area Support).

Example

The SPS eligible area is declared as 100 hectares, of which 25 hectares is also used to claim the Aid for Energy Crops. A further 3 hectares are claimed for the Area Payment for Nuts, making a total declared area for all aid schemes of 103 hectares.

The SPS eligible area is determined to be 52 hectares, of which 20 hectares is determined for energy crops, and 3 hectares determined for nuts, making a total determined area of 75 hectares.

The difference between the total area declared (103 hectares) and the total area determined (75 hectares) is 28 hectares, which is a 37.33 per cent difference ($28 \div 75$) from the area determined. As the difference exceeds 30 per cent, no payment will be made for any of these schemes for the scheme year concerned.

P13. If the difference is more than 50 per cent, you will receive no payment in that year under the SPS or any other schemes covered by the application (excluding Less Favoured Area Support). You will also have the same amount deducted from claims under the SPS or

any other schemes covered by the application (excluding Less Favoured Area Support) over the next three years. The amount will be offset against claims made in those years.

Intentional over-declaration

- P14. Where you have intentionally over-declared the area of a crop group, no payment will be made in respect of that crop group in that calendar year.
- P15. In addition, if you have over-declared by more than 20 per cent of the area determined, your payment under the SPS or any other schemes covered by the application (excluding Less Favoured Area Support) in the following year will be reduced by an amount that corresponds to the difference between the area declared and the area determined. This amount will be offset against payments made in the following two years under the same schemes.
- P16. A false declaration made intentionally or recklessly may also lead to criminal prosecution. If found guilty, you could face an unlimited fine or up to two years' imprisonment.

Non-food and energy crops

- P17. If you fail to deliver the correct quantity of non-food or energy crops, the payments you receive will be reduced according to the principles on areas discrepancies set out above. The relevant area will be calculated by multiplying the area of land cultivated for these crops by the percentage shortfall in delivery.

Example

The total SPS eligible area is 250 hectares. The non-food area declared is 8 hectares and the representative yield for the crop grown is 2.31 tonnes per hectare. This equates to a total required yield of 18.48 tonnes. A total of 12.18 tonnes is delivered which is a shortfall of 34.09 per cent. The relevant area of 8 hectares will therefore be reduced by 34.09% i.e. 2.72 hectares.

As this difference is more than 2 hectares but less than 20 per cent of the total area determined in the crop group, aid is calculated on the basis of the area determined reduced by twice the shortfall, i.e. $2.72 \times 2 = 5.44$ hectares.

Use of set-aside entitlements

- P18. If you have not set aside enough land to activate all your set-aside entitlements but have other land which you are using to support normal entitlements, this other land will be offset against your set-aside entitlements up to the amount needed to support those set-aside entitlements in full.

P19. Land which is offset in this way is considered as 'not determined' for the purpose of activating normal entitlements, so no payment will be made on the corresponding normal entitlements. In addition, if this offset land is not managed as set-aside, no payment will be made on the set-aside entitlements that have not been used.

Example

You hold eight set-aside entitlements but have failed to set aside any land.

	Normal	Set-aside	Total
Entitlements held (ha)	92	8	100
Area declared for activation (ha)	100	0	100
Area found (ha)	100	0	100
Adjustment (ha)	-8	8	0
Area determined (ha)	92	0	92
Difference (area declared less area determined)	$100 - 92 = 8$	0	8 ha or 8.7% ($8/92 \times 100$)

As the difference of 8 hectares between the areas declared and determined is more than 2 hectares or 3 per cent, it is doubled to calculate your penalty. Your SPS payment will be based on 76 hectares (92 hectares (area determined) reduced by 16 hectares ($8 \text{ ha} \times 2$) = 76 hectares).

P20. If you have insufficient land eligible to be set aside to meet your set-aside obligation in full, you should activate as many set-aside entitlements as your land eligible for set-aside will support. You can then activate normal entitlements without penalty. You will not be paid on any unactivated set-aside entitlements, and if they are not used within three years they will revert to the National Reserve.

Penalties relating to cross compliance requirements

P21. If you, or someone acting on your behalf or under your control, fail to comply with any of the cross compliance requirements (including set-aside management rules), your payments may be reduced. Details are given in the *Cross Compliance Handbook for England 2006 edition*.

P22. You will be held responsible for a non-compliance where you were in charge of the relevant land or animal at the time the non-compliance was found. If the land or animal was transferred after

the non-compliance began, the new farmer will also be liable if the non-compliance carried on, provided he could have detected and ended it. Failure to comply with certain cross compliance requirements may also constitute a criminal offence.

Negligence

- P23. If you negligently fail to comply with a cross compliance requirement, the total amount of direct payments you receive in the year the breach was identified will generally be reduced by 3 per cent for each non-compliance. This can be reduced to 1 per cent or increased to 5 per cent depending on the extent, severity and permanence of the breach, and the number of times it is repeated. In certain circumstances, it may not be appropriate to make a reduction.
- P24. If you fail to comply with more than one requirement within the same broad area – for example, public and animal health – these failures will be treated as a single non-compliance. If you fail to comply in different areas – for example, public and animal health and the environment – separate reductions will be made for each non-compliance. The percentage reductions will be added together, but the maximum reduction will be 5 per cent of the overall payment due.
- P25. Where you fail to comply with the same requirement or standard more than once within a three-year period, the reduction applied in relation to the first non-compliance will be multiplied by three in relation to the second non-compliance, provided you were informed of the earlier non-compliance and given an opportunity to remedy the breach. The reduction will be multiplied by three for subsequent failures to comply, up to a maximum of 15 per cent of the aid originally due.
- P26. If, once the reduction has reached 15 per cent, you fail to comply again, you will be treated as having intentionally failed to comply. The previous reduction, calculated before the 15 per cent threshold was applied, will be multiplied by a factor of three, and the rules on intentional non-compliance will also be applied.

Example

A breach of GAEC 7 Scheduled Monuments is discovered (an unauthorised operation was carried out which resulted in the destruction of a scheduled monument). This results in a 3 per cent reduction to your direct payments.

A further breach of GAEC 7 Scheduled Monuments occurs within three years of the initial breach. As this is a repeat of a previous breach, the reduction applied is three times the original penalty, which in this case results in a 9 per cent reduction in direct payments.

If a further breach of GAEC 7 Scheduled Monuments occurs within three years of the last breach, the previous reduction of 9 per cent will be multiplied by three to give a reduction of 27 per cent. However, this reduction will be capped at 15 per cent and you would be notified in writing that a further breach in this area would be treated as intentional and the uncapped reduction of 27 per cent would be multiplied by three, to give an 81 per cent reduction.

Intentional non-compliance

P27. If you intentionally fail to comply, your overall payments will generally be reduced by 20 per cent. This could be reduced to 15 per cent or increased to 100 per cent depending on the extent, severity and permanence of the breach, and the number of times it is repeated.

Accumulation of reductions

P28. Reductions will be applied in the following order:

- penalties for over-declaration of area;
- penalties for late submission;
- penalties for failing to declare all the agricultural land on your holding;
- modulation; and
- penalties for cross compliance breaches.

P29. Each successive reduction will be based on the amount resulting from the previous reduction.

Circumstances under which penalties may not apply

Obvious error

P30. Mistakes that can be classified as obvious errors can be corrected without reduction at any time, provided RPA recognises that you acted in good faith and that there is no risk of fraud. The following types of mistake may be classified as obvious errors, but each case will be considered on its own merit:

- clerical errors such as missing information, empty boxes or incorrect statistical information. These kinds of errors must be obvious to RPA from a simple examination of the application;

- contradictions that come to light when RPA compares information in the same application, either manually or by computer. Examples of these kinds of errors include arithmetical mistakes and inconsistent information (declaring the same parcel twice in a single claim or declaring the same parcel for two types of usage);
- anomalies involving parcel numbers or references detected when the application is cross-checked against databases – for example, reversed figures (parcel no. 1169 instead of 1196), mistakes in map reference numbers, or mistakes in parcel numbers as a result of a map-reading error.

Amendments

- P31. You can make the following amendments to your application without incurring penalties provided RPA receives them by midnight on 31 May 2006:
- add agricultural parcels (whether or not they are accompanied by the corresponding payment entitlements); and
 - show changes regarding the use or aid scheme in respect of individual parcels already included in your application.
- P32. If RPA receives your amendments between 1 June and midnight on 9 June, payments relating to the parcels in question will be reduced by 1 per cent for each working day the amendments are late. RPA will not accept amendments received after midnight on 9 June.
- P33. However, if you have already been notified of an error in your application or notified about an inspection that subsequently reveals errors, you cannot amend details for the parcels of land concerned.

Notified errors

- P34. Penalties may not be imposed in relation to an error on your application, provided you notify RPA in writing before you have been notified of the error in your application or notified about an inspection that subsequently reveals an error. It is therefore in your interest to notify RPA of any error even after the time limit for making an amendment has passed.

Withdrawal

- P35. You can withdraw all or part of your application at any time, provided you do so before being notified of any errors in your application or notified about an inspection that subsequently reveals errors in respect of the withdrawn information. Your application to withdraw must be made in writing.

Force majeure and exceptional circumstances

P36. In limited circumstances, RPA may accept that you are prevented from meeting the scheme rules due to either *force majeure* or exceptional circumstances. In such cases, penalties 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'. P37. Examples of *force majeure* and exceptional circumstances that may be recognised include:

- the death of the farmer;
- a long-term professional incapacity of the farmer;
- a severe natural disaster affecting the holding's agricultural land;
- the accidental destruction of livestock buildings; and
- an epizootic disease affecting livestock.

P38. If you wish RPA to consider an event that you think amounts to *force majeure* or exceptional circumstances, you must notify us **in writing** within 10 working days of your being in a position to do so. You will need to prove that the event has occurred and that it resulted in your failing to meet the scheme rules. Notifications will be looked at on a case-by-case basis.

Q Inspections

- Q1. RPA will enforce the rules of the SPS (including the rules relating to cross compliance) through on-the-ground visits and the use of satellite imagery or aerial photography. We will select applications for inspection on the basis of objective risk assessment, randomness and specific targeting.
- Q2. Although RPA has overall responsibility for ensuring that inspections are carried out, we will also work in partnership with various enforcement bodies, such as the Environment Agency, which will carry out some of the specialist inspections. Where specialist agencies discover a non-compliance in the course of other duties, they may report this to RPA.
- Q3. Although we will try to ensure that visits cause the minimum of disruption, a number of inspections must be unannounced. This means that you may not be given notice of a visit. When notice is given, the notice period will be short. Inspections may also occur more than once during a calendar year.
- Q4. If you refuse to allow an inspection, or intentionally obstruct an inspector or fail to give reasonable assistance, you may lose your payment. You could also face prosecution.
- Q5. Within crop groups, we may, after inspection, offset over-declarations in respect of one parcel against under-declarations in respect of another (except in the case of set-aside – see paragraphs P18–P20).
- Q6. The Department for the Environment, Food and Rural Affairs (Defra) has set up an Inspection Co-ordination Board (ICB) to help RPA co-ordinate inspections, and to ensure that cross compliance rules are applied consistently. The ICB will also ensure that the number and burden of inspections are minimised, and that a customer-focused approach to enforcement is developed.

R Appeals and complaints

Appeals

- R1. If you want to contest a decision RPA has made concerning the SPS, you should first send your reasons in writing to the RPA Customer Service Centre (CSC). You should set out the facts as fully as possible, quoting your SBI number. See Part U for contact details.
- R2. We will investigate your case and write to tell you of the outcome. You should receive a response within 15 working days. Where this is not possible, we will contact you to explain why and tell you when you can expect a reply.
- R3. If we have decided to stand by our original decision, you can make a formal appeal under the SPS appeal procedure. For details of the appeal procedure, see the leaflet *The Single Payment Scheme Appeal Procedure in England*, which is available from the CSC.
- R4. To make a formal appeal, you will need to complete form SP6 (enclosed with the leaflet) and send it to the Customer Relations Unit (CRU) within 60 days of receiving your letter from us stating that we stand by our original decision.
- R5. The appeal leaflet is also available on our website at www.rpa.gov.uk. However, the application form is available only from the CSC.

Complaints and feedback

- R6. If you are not satisfied with our service or have a complaint, you should write to the CRU.
- R7. If you believe there has been maladministration of your case, you can ask your MP to pass your complaint to the Parliamentary Commissioner for Administration (the Parliamentary Ombudsman), who is entirely independent of the Government.
- R8. We also welcome feedback on the service we provide. If you have any suggestions as to how we can improve our service, please contact the CRU.

Customer Relations Unit contact details

Customer Relations Unit
Rural Payments Agency
PO Box 69
Reading RG1 3YD
Telephone: 0118 953 1282
Email: customerrelations@rpa.gsi.gov.uk

S Freedom of information and the Data Protection Act

Freedom of information

- S1. The Freedom of Information Act (FOIA) and new Environmental Information Regulations (EIRs) came fully into force on 1 January 2005. This legislation created a new system of fully enforceable rights of access to information held by public authorities. These new rights apply to all information, regardless of how old it is or who holds it. They signal a recognition of, and commitment to, the public interest in openness about government. For more information on access to information, go to the RPA website at www.rpa.gov.uk and click on 'Access to information', or go to the website of the Information Commissioner's Office at www.informationcommissioner.gov.uk

Data Protection Act

- S2. Defra is the data controller in respect of any personal data that you provide to RPA.
- S3. Your personal data will be protected in line with the Data Protection Act 1998. We will use the data:
- to support the application to which it relates;
 - in the case of the Cattle Tracing System (CTS) to register cattle and their movements;
 - for the administration of the Common Agricultural Policy (CAP) and other schemes administered by RPA;
 - in relation to the production and safety of food;
 - in relation to the management of land and other environmental controls;
 - in relation to animal health and welfare; and
 - in relation to occupational health and welfare.
- S4. When required to do so, we may pass data to other organisations. For example:
- to HM Revenue & Customs for import or export purposes;
 - to local authorities for milk, health or cross compliance purposes; or
 - to the Environment Agency, English Nature or the Forestry Commission for cross compliance purposes.

- S5. We may also use the data we collect to produce statistics for the agricultural census. However, these statistics will not identify individuals.
- S6. In limited circumstances, RPA may be required to release information (including personal data and commercial information) under the EIRs and the FOIA. In particular, we are committed to releasing information on subsidies paid under CAP schemes.
- S7. Defra or its agents, including RPA, may use your name, address and other details to contact you in connection with occasional customer research aimed at improving the services we provide to you.
- S8. To obtain a copy of your personal data as held by RPA, go to www.rpa.gov.uk and click on 'Access to information', then 'Personal data'. RPA's public service guarantee on data handling, which sets out your rights in respect of the handling of your personal data, is also available online. If you do not have access to the internet, please call the Customer Service Centre on 0845 603 7777.
- S9. If you believe that any of the information we hold concerning you is incorrect or out of date, please provide us with the accurate information in writing together with supporting evidence (if appropriate). Send the information to:

Access to Information Helpdesk
Rural Payments Agency
PO Box 69
Reading RG1 3YD

T Glossary

Agricultural activity The production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or maintaining the land in Good Agricultural and Environmental Condition (GAEC).

Agricultural land Land in the following uses must be declared on your application:

- arable land;
- permanent pasture;
- permanent crops;
- fruit, vegetables and potatoes (fvp);
- land used for grapes, tobacco, hops, agri-environment, forestry, LFAs and areas with environmental restrictions, olive oil, cotton, dried fodder, citrus for processing, tomatoes for processing and wine;
- hops; and
- land put to uses other than the above and not already declared for SPS or other direct payments.

Arable land Arable land includes:

- land used for normal arable/combinable crops, including energy and protein crops, flax and hemp;
- land used for potatoes, sugar beet and other root crops;
- land used for forage maize and forage rape;
- land under grass for less than five years;
- land under grass and counted as set-aside in the last five years;
- land used for fruit (including strawberries), but not top fruit;
- land used for vegetables;
- land under greenhouses or under fixed or mobile cover (unless the land has been made unsuitable for agriculture, for example by concreting) which is otherwise eligible;
- land used for multiannual crops;
- land used for cut flowers and bulbs;
- land used for turf, except for fuel;
- existing set-aside; and
- fallow land maintained in GAEC.

BACS Banks Automated Clearing Service – a mechanism for making electronic payments between bank accounts.

CN code EC Combined Nomenclature code used to identify products for duty and trade statistics.

Eligible land Any area of the holding taken up by:

- arable land;
- land used for hops;
- permanent pasture;
- short rotation coppice and *Miscanthus* grown on set-aside land as non-food crops or on SPS eligible land where energy crop payment is claimed;
- short rotation coppice, *Miscanthus sinensis* and reed canary grass, irrespective of end use, where the crops were planted between 30 April 2004 and 10 May 2005 or before 30 April 2004 and the land was leased or acquired between 30 April 2004 and 10 May 2005 with the intention of applying for SPS; and
- in some circumstances, an area within an orchard or grazed woodland.

Farmer A natural or legal person, or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, whose holding is situated within the EU and who exercises an agricultural activity.

Forage area The area of land on which you are claiming Less Favoured Area Support.

fvp fruit, vegetables and potatoes

Herbaceous forage All herbaceous plants traditionally found in natural pastures or normally included in mixtures of seeds for pastures or meadows in the UK (whether or not they are used for grazing animals). These include lucerne, sainfoin, forage vetches and clovers, but not any of the following: kale, fodder rape or any other forage brassicas, fodder root crops, forage maize or any other cereals grown for silage or for any other form of forage.

Holding All the production units managed by a farmer within the UK.

Ineligible land Areas of your holding which cannot be used to activate an entitlement to payment under the SPS include:

- land under permanent crops or nurseries of permanent crops, including Christmas trees and hardy ornamental nursery stock (see paragraph C26 for exceptions);
- land being used for peat production;
- forest;
- orchards (see paragraphs C11–C14 for exceptions); and

- land being used for non-agricultural purposes (see paragraphs C27–C36 for information on the limited non-agricultural uses that are permitted).

Multiannual crops If the following crops are being grown on land or in a nursery, that land or nursery will be eligible for the SPS:

- artichokes;
- asparagus;
- rhubarb;
- raspberries, blackberries, mulberries and loganberries;
- black, white or redcurrants and gooseberries; and
- cranberries, bilberries and other fruits of the genus *Vaccinium*.

Nurseries Nurseries are described in Annex 1 (G/05) of Commission Decision 2000/115/EC and include nurseries of *Miscanthus* and short rotation coppice. Nurseries of woody plants grown for subsequent transplantation, nurseries of forest trees and nurseries of trees and bushes for planting in gardens, parks, etc. are classified as permanent crops and are not eligible under the SPS.

Some nurseries, for example nurseries of *Miscanthus*, short-rotation forest trees and some trees, bushes and shrubs, can be grown on set-aside land without a non-food crop contract and claimed under the SPS if they are intended for the manufacture of certain products (see pages 29, 34 and 35 of the *Set-aside Handbook and Guidance for England 2006 edition*).

Permanent crops Non-rotational crops other than permanent pasture that occupy the land for five years or longer and yield repeated harvests. This includes nurseries and short rotation coppice (CN code ex 0602 90 41), with the exception of multiannual crops and nurseries of multiannual crops. In determining eligibility, we will consider whether the usual husbandry for that crop would require it to be in the ground for more than five years rather than whether a particular parcel was under a crop for that period.

Permanent pasture Permanent pasture is land that:

- is used to grow grasses or other herbaceous forage, which may be naturally self-seeded or sown;
- has **not** been included in the crop rotation for five years or more; **and**
- has not been set aside during that five-year period whether under AAPS, the SPS or some agri-environment scheme options.

Personal data Information about a living individual.

Temporary grass Land that has been continuously in grass for less than five years whether reseeded or not during that time. Temporary grass is considered arable land under the SPS.

U Further information

RPA is the first point of contact for queries about the SPS rules. You should call the Customer Service Centre (CSC) on 0845 603 7777 (lines are open from 8.30am to 5pm Monday to Friday) or email csc@rpa.gsi.gov.uk. For more information about the SPS, visit the RPA website at www.rpa.gov.uk

Customer Service Centre
PO Box 1058
Lancaster House
Hampshire Court
Newcastle Business Park
Newcastle upon Tyne NE99 4YQ

You can find the relevant EU regulations on the European Union website at <http://europa.eu.int/eur-lex/en/>

You can obtain relevant domestic legislation from the Office of Public Sector Information. Go to www.opsi.gov.uk or call 0870 600 5522.

The Defra website is at www.defra.gov.uk

Amendment to the *Cross Compliance Handbook for England 2006 edition*

Paragraph 131(b) should be amended with the additional text in bold font:

'You must not kill or take game birds during the close season for that bird species (see Appendix 2c). The sale or purchase of game birds **(except live birds for rearing or exhibition purposes or for sale alive)** after 10 days from the end of the open season for the bird in question is also prohibited.'