

CAP PILLAR I DIRECT PAYMENTS – SUMMARY OF DECISIONS

This paper summarises the CAP Pillar I (Direct Payments) decisions announced to date.

SUMMARY OF DECISIONS ANNOUNCED ON 14 MARCH 2014

1. ENTITLEMENTS

The Direct Payments Regulation permits the retention of existing payment entitlements or the reallocation of entitlements in 2015. If entitlements are reallocated, the initial unit value of Basic Payment Scheme entitlements to be allocated to a farm business in 2015 will be calculated by dividing either the total value of Single Farm Payments entitlements held or the total value of entitlements activated (i.e. payments made prior to any deductions) by that business in 2014 by the total area of eligible land used by the business to establish entitlements in the first year of the new regime (2015). The Regulation also allows Member States and regions the option to limit the number of new entitlements allocated to individual claimants to the number of eligible hectares they declared in 2013.

Final decisions

- All existing entitlements will be cancelled at the end of 2014 and new entitlements will be allocated in 2015.
- Entitlements held on 15 May 2014 will be used to calculate the initial value of entitlements allocated under CAP Reform.
- The option to restrict the number of entitlements to the area of land declared in 2013 will not be used.

SUMMARY OF DECISIONS ANNOUNCED ON 9 APRIL 2014

2. ELIGIBLE LAND

The definition of land eligible for future direct payments will differ little from that under the current system.

Final decisions

- Land which can be grazed and forms part of established local practices where grasses and other herbaceous forage are traditionally not predominant in grazing areas will be included in the definition of permanent grassland. In Northern Ireland, this means that grazed heather will continue to be eligible.
- No reduction coefficient will be applied for the purposes of establishing entitlements on permanent grassland located in areas constrained by climatic conditions, soil quality, steepness and water supply.
- No reduction coefficient will be applied to land used to activate entitlements where grasses and other herbaceous forage are not predominant but which is grazed as part of established local practice.
- Agricultural areas under permanent greenhouses will not be excluded from being used to establish entitlements.

3. MINIMUM ALLOCATION OF ENTITLEMENTS AND CLAIM SIZE

The Direct Payments Regulation contains an option to set a minimum size of holding for which the initial establishment of entitlements may be requested. This can be set at a level no greater than 5ha. In addition, there is a mandatory requirement to set the minimum claim size each year at either 1ha or €100. These latter values can be increased up to 5ha or €200.

Final decision

- Set both: (i) the minimum area for which the establishment of entitlements can be requested in 2015, and; (ii) the minimum claim size

(number of entitlements that must be activated each year before any payment can be made) at **3ha**.

4. SIPHON ON ENTITLEMENT TRANSFERS

The Direct Payments Regulation provides Member States and regions with the option to siphon off up to 30% (or 50% in the first 3 years) of the unit value of entitlements when they transfer between claimants without a corresponding transfer of land. The amount taken off would be placed in the regional reserve and could be used to meet regional reserve allocations.

Final decision

- No siphon will be applied in Northern Ireland when payment entitlements are transferred without land.

5. ALLOCATION OF BASIC PAYMENT SCHEME ENTITLEMENTS TO FARMERS WHO PRODUCED, REARED OR GREW AGRICULTURAL PRODUCE ON 15 MAY 2013 BUT NEVER HELD SFP ENTITLEMENTS

The default provision in the Direct Payments Regulation is that only those farmers in receipt of a direct payment (SFP) in the 2013 scheme year (prior to the application of any penalties) will have an automatic right to establish entitlements under the new Basic Payment Scheme. However, there is an option which would enable Member States and regions to allocate entitlements in 2015 to farmers who never held SFP entitlements previously but who can submit verifiable evidence that on 15 May 2013, they produced, reared or grew agricultural products. This option would allow those businesses that commenced farming after 2005 but which would not qualify as new entrants under the regional reserve to receive entitlements under the Basic Payment Scheme. There is also an option to add additional eligibility criteria regarding appropriate skills, experience and/or education for such allocations.

Final decisions

- Those who have never held SFP entitlements will be allocated Basic Payment Scheme entitlements under the new regime if they can provide verifiable evidence of production activity on 15 May 2013.
- Additional eligibility criteria regarding appropriate skills, experience and/or education will not be applied.

6. REGIONAL RESERVE

The Department intends to establish a regional reserve which will be financed and operated independently of other regional reserves. It will be financed initially by reducing the funds available for the Basic Payment Scheme. The percentage reduction to be applied to create the initial regional reserve cannot be higher than 3%, except if required to meet the needs of young farmers, new entrants or, if so decided, farmers in areas subject to restructuring in 2015. The actual percentage reduction applied to create the regional reserve will be set by the Department based on demand.

The regional reserve must be used to allocate payment entitlements to new entrants and young farmers.

Final decisions

- The regional reserve will not be used to allocate entitlements to farmers in order to prevent land from being abandoned, including in areas subject to restructuring or development programmes relating to a form of public intervention.
- The regional reserve will not be used to allocate entitlements to farmers in order to compensate them for specific disadvantages.
- The regional reserve will be used to allocate entitlements to farmers who were prevented from being allocated payment entitlements as a result of force majeure or exceptional circumstances.

7. GREENING

Farmers who participate in the Basic Payment Scheme must, where applicable, adhere to three greening measures (i.e. crop diversification, permanent grassland retention and provision of Ecological Focus Areas - EFAs) which produce beneficial outcomes for the climate and the environment. Under the Direct Payments Regulation, 30% of the direct payments budget ceiling must be devoted to the greening payment.

The three requirements under greening are¹:

- Retention of permanent grassland. Permanent grassland is defined as grassland which has not been part of an arable rotation in the previous five years. The agreement requires that the ratio of permanent grassland to total agricultural area shall be maintained and that this ratio shall not decrease by more than 5% compared with the ratio in 2012. The ratio can be monitored at national, regional or sub-regional level. Member States/regions can decide to apply an obligation to maintain permanent grassland at individual holding level in order to ensure that the overall ratio does not fall by more than 5%.
- When the obligation is monitored at the regional level, a decrease of permanent grassland of more than 5% would mean that individual farmers would be required to convert land back to permanent grassland (with the exception of land previously converted to forestry).
- Member States/regions are also required to designate permanent grasslands that are environmentally sensitive and which fall within areas covered under the Habitats and Birds Directives. These designated permanent grassland areas will be subject to a ploughing and conversion ban. There is an option to extend this ban to sensitive permanent grasslands in other areas falling outside of those covered by the Habitats and Birds Directives.

¹ Note that the requirements described here reflect only the main elements of greening and do not include some of the more technical and complex aspects of the requirements and exemptions.

- Crop diversification. This applies to arable land (defined as land which has been cropped within the previous five years). Claimants with less than 10ha of arable land are exempt from crop diversification. Those with between 10ha and 30ha of arable land, must grow at least two crops, with no one crop accounting for more than 75% of the arable land. Those with 30+ha of arable land must grow at least three crops, the main crop not exceeding 75% of the area and the two main crops together not exceeding 95%. Grass counts as a crop type, with winter and spring crop varieties counting as separate crop types. There is an exemption from this requirement for farms comprising more than 75% grassland (or where more than 75% of the arable land is in grass/fallow), providing the remaining arable area on these farms does not exceed 30ha.
- Ecological Focus Area (EFA). Farms with more than 15ha of arable land must maintain at least 5% of this area as an EFA. There is an exemption from this requirement for farms comprising more than 75% grassland (or where more than 75% of arable land is in grass/fallow/legumes), providing the remaining arable land on these farms does not exceed 30ha. The 5% requirement for EFA will be reviewed by the EU Commission in 2017 and if deemed appropriate, an increase to 7% may be proposed.
- Member States and regions have a choice of the land uses and features that can be used by farmers to count towards their EFA obligation.
- Under the Direct Payments Regulation, there is an option to use a conversion matrix to apply conversion and weighting factors when calculating the contribution of the individual EFA features to meeting the total EFA obligation at farm level. Instead of directly measuring the area occupied by these features, the matrix could be used to convert, for example, the length of a feature (such as a hedge) into an

equivalent area which reflects its ecological benefit and contribution to the environment. The use of the conversion matrix is mandatory in the case of catch crops, green cover, nitrogen fixing crops and strips of eligible hectares along forest edges (where production is allowed).

- There is an option to permit a group of not more than 10 farmers whose holdings are in close proximity to fulfil their EFA requirement on a collective basis, provided their EFA is contiguous. Individual participants in this arrangement would have to ensure that at least 50% of their EFA obligation is in, or is adjacent to, the arable land declared by them. Member States and regions may designate the geographical areas on which collective implementation is possible and impose further obligations on the participating farmers or groups of farmers.
- There is a further option to implement up to 50% of the EFA obligation at regional level in order to obtain adjacent EFA areas. Member States and regions have to designate the geographical areas and the obligations for participating farmers or groups of farmers.
- There is an option which permits Member States/regions to allow or require farmers to use 'equivalent practices' to qualify for the greening payment rather than adhering to the three standard greening requirements outlined above. Under this option, farmers could meet their greening requirements through participation in agri-environmental schemes and/or national environmental certification schemes where the practices required of farmers under these schemes are deemed to deliver a level of benefit for the climate and the environment that is equivalent to, or higher than, the standard greening requirements. This would require such schemes to be developed with suitable adjustments to ensure that double funding does not occur.

Final decisions

- The 'equivalence' option will not be used.

- Permanent grassland will be monitored at regional level rather than individual farm level.
- At this stage, the ploughing/conversion ban will not be extended beyond the areas of permanent grassland within areas designated under the Habitats and Birds Directives. However, this option will be kept under review and considered for activation if required and if it is shown to represent a viable solution to loss of environmentally sensitive grasslands (should this emerge as a significant problem).
- The option to allow groups of farmers to use collective arrangements for up to 50% of their EFA obligation will not be implemented.
- The option to implement up to 50% of the percentage points of the EFA at regional level will not be used.
- The EFA conversion matrix will be used for the purposes of determining the area of land which counts as EFA.
- The following features and areas will be used as EFA
 - Land lying fallow;
 - Landscape features required to be retained under cross compliance (which will in any event include hedges, ditches and stone walls);
 - Areas of agro-forestry;
 - Areas with short rotation coppice with no use of mineral fertiliser and/or plant protection products;
 - Afforested areas which were used to claim SFP in 2008; and
 - Areas with nitrogen fixing crops.

NB. All the above features must be on or adjacent to arable land with the exception of short rotational coppice and afforested areas.

- The following features and areas will not be used as EFA
 - Terraces;
 - Buffer strips;
 - Strips of eligible hectares along forest edges; and
 - Areas with catch crops or green cover.

8. REDISTRIBUTIVE PAYMENT

The Redistributive Payment is an optional measure permitting a flat rate payment to be granted to farmers on hectares activated under the Basic Payment Scheme, up to a maximum limit of 54ha per holding in the case of Northern Ireland.

Final decision

- The Redistributive Payment will not be used.

9. SMALL FARMERS' SCHEME

Up to 10% of the direct payment support budget can be used to operate a payment scheme for small farmers. Participants in the Scheme would receive a single payment that would replace all of the other direct payments that they might otherwise receive. They would also be exempted from both the cross compliance and greening requirements. Farmers would be able to opt into the Small Farmers' Scheme before the deadline of 15 October 2015 or, alternatively, all farmers receiving less than €1,250 could be automatically opted in to the Scheme. However, farmers would have the right to opt out at any stage and participate instead in the standard schemes.

Since the consultation on 'Policy Options arising from the Reform of the Common Agricultural Policy (Pillar I Direct Payments)' was launched, clarity has been received on the active farmer issue, which means the actual number of participants in the Small Farmers' Scheme is likely to be considerably lower than first anticipated - perhaps around 2,400. This would reduce further by 2019 - to perhaps less than 1,000 - as a result of the progression towards flat rate support (which would prompt individuals to leave the Small Farmers' Scheme as and when their payments under the standard schemes exceeded €1,250).

The EU Commission has also confirmed that it will not be possible automatically to opt farmers out of the Scheme once their payments under the standard schemes exceed €1,250. Therefore, the Department would need to

establish a notification mechanism to inform farmers that they should opt out of the Scheme otherwise their payments will be capped at €1,250. Inevitably, not all will do so at the appropriate time.

In summary, the Small Farmers' Scheme no longer offers the prospect of significant simplification (and could even increase the administrative burden given the notification requirement).

Final decision

- The Small Farmers' Scheme will not be implemented.

10. ACTIVE FARMER TEST

The Direct Payments Regulation includes a compulsory active farmer test for those businesses that also operate railway services, airports, waterworks, real estate services or permanent sporting and recreational facilities (this is the so-called negative list). These types of businesses will be prohibited from receiving direct support payments unless they can show that these receipts equate to at least 5% of their non-agricultural receipts, or that their agricultural activities are not insignificant, or that their principal business or company objects consist of exercising agricultural activity. A minimum claim threshold must also apply to this test (i.e. those businesses claiming below this threshold would not be subject to the test). This threshold must not be higher than €5,000, but could, in theory, be as low as zero (i.e. at zero there would be no exemption from the test for businesses on the negative list).

There is an option to add similar non-agricultural businesses or activities to the negative list defined above. However, any additions must be made on the basis of objective and non-discriminatory criteria.

There is a further option to exclude any claimant (not just those on the negative list) from receiving payments if their agricultural activities form only an insignificant part of their overall economic activities and/or whose principal activity or company objects do not consist of exercising an agricultural activity.

Final decisions

- Additional non-agricultural businesses will not be added to the negative list.
- The option to exclude any claimant (not just those on the negative list) from receiving payments if their agricultural activities form only an insignificant part of their overall agricultural activities and/or whose principal activity or company objects do not consist of exercising an agricultural activity will not be used.
- A decision on the claim threshold for the application of the active farmer test will be taken later in light of further Commission clarification.

SUMMARY OF DECISIONS ANNOUNCED ON 15 MAY 2014

11. YOUNG FARMERS' SCHEME

The Young Farmers' Scheme is a mandatory component of the direct payments support framework. The Scheme will be financed by reserving up to 2% of the Direct Payments budget ceiling for this purpose. The Scheme provides a 'top-up' to the Basic Payment for those who qualify as a young farmer. Optional eligibility criteria may be put in place for those wishing to benefit from the Scheme.

Final decisions

- 2% (the maximum possible) of the direct payments ceiling will be allocated to the Young Farmers' Scheme.
- The level of top-up payment received by a young farmer will be based on 25% of the total direct payments regional average per hectare (approximately €84/ha).
- The top-up payment per hectare for young farmers will be limited to 90ha.
- A Level II qualification in agriculture (or related subject containing at least a farm business management module) will be a requirement for Young Farmers' Scheme eligibility.

12. REGIONAL RESERVE

There is an option within the Direct Payments Regulation to define further eligibility criteria for young farmers and new entrants to meet in order to receive an award from the regional reserve, as regards appropriate skills and/or training requirement.

Final decision

- A Level II qualification in agriculture (or related subject containing at least a farm business management module) will be a requirement for young farmers and new entrants to receive an award from the regional reserve.

13. CAPPING OF DIRECT PAYMENTS

The Direct Payments Regulation stipulates a mandatory reduction of at least 5% for payments under the Basic Payment Scheme exceeding €150,000 received by individual claimants. This reduction can be increased up to 100%. There is a further option to allow salary mitigation which would entail salaries paid to farm employees being subtracted from Basic Payment amounts exceeding €150,000 prior to the calculation of the reduction to the Basic Payment.

Final decision

- Payments made under the Basic Payment Scheme to any given recipient will be capped at €150,000 (i.e. 100% reduction applied to amounts above this threshold). The salary mitigation option will not be applied.

NB. The Greening Payment and Payments under the Young Farmers' Scheme are not subject to capping.

SUMMARY OF DECISIONS ANNOUNCED ON 26 JUNE 2014

14. Single or multi-region model

The EU Regulation permits one or more regions to be established in the north of Ireland for the purposes of administering the direct payments support regime. The consultation issued by my Department analysed a number of possibilities and suggested adopting a single region model. The majority of those who responded to the consultation were in agreement with my Department's suggestion. Most of those who did not agree with a single region model called for a two region model, with the current Severely Disadvantaged Area (which is a sub-set of the Less Favoured Area) as one region and the rest of the north as a second region.

Final Decision

A single region Pillar I support model will be implemented.

15. Rate of Internal Convergence

At present, levels of direct payments per hectare received by individual farmers under the Single Farm Payment (SFP) are based primarily on their level of subsidy claims made under production-linked support schemes in the 2000–2002 period (or in the case of dairy, milk quota held on 31 March 2005). This gives rise to widely differing payment rates per hectare between farmers.

The EU Regulation requires that there is movement in the unit value of Basic Payment Scheme (BPS) entitlements towards a flat rate of payment per hectare within each defined region. Member States and regions have the option to move immediately to paying the new Basic Payment on a flat rate basis in 2015 or to adjust the value of BPS entitlements from their initial value calculated in 2015 (which would be linked back to previous Single Farm Payment values) to a flat rate by 2019 through a series of equal annual steps. Partial transition towards flat rate convergence by 2019 is also an available option.

The responses to the consultation showed that views on this issue were divided.

Final Decision

- i. Increase in equal annual steps the unit value of those BPS entitlements below the regional average by 71.4% of the difference between their initial unit value in 2015 and the regional average by 2019.
- ii. For BPS entitlements above the regional average, apply a linear decrease to the difference between the initial 2015 unit value and the regional average in order to generate the required funds for the increase in entitlements which are below the regional average.

This is consistent with reaching a flat rate by 2021 which represents a 7 year transition period commencing in 2015. Arrangements after 2019 will depend on future EU CAP Reform.

16. Method of Calculating Greening Payment

Farmers who participate in the BPS must, where applicable, adhere to three greening measures (crop diversification, permanent grassland retention and provision of Ecological Focus Areas). In return, they will receive a greening payment which will account for 30% of the direct payments budget regional ceiling. There are two options for calculating the value of greening payment per hectare; either on a flat rate per hectare basis or as a percentage of the value of BPS entitlements activated by individual claimants each year. Within the consultation, my Department proposed the latter of these two options.

There were divergent views on this issue from stakeholders. This issue is linked to the above rate of transition.

Final Decision

The greening payment is calculated as a percentage of the total value of BPS entitlements activated by each claimant in each year.

Therefore, over time, the value of the greening payment per hectare will move towards a flat rate payment at the same pace as the movement of the Basic Payment.

17. Voluntary Coupled Support

The EU Regulation permits the option of providing limited amounts of coupled support to farmers, i.e. a payment directly linked to the volume of output of a specific agricultural product. The budget for this option would come from re-directing up to 8% of the direct payments regional ceiling. The majority of consultation respondents were opposed to coupled support payments being applied in the north.

Final Decision

The option to provide coupled support will not be used at present. However, the option will be kept under review in light of potential future market developments.

18. Areas with Natural Constraints (ANC)

Member States or regions have an option to grant an additional payment under Pillar I to those farmers claiming the BPS in Areas with Natural Constraints (as defined under the new Rural Development Regulation). Up to 5% of the direct payments budget ceiling can be re-directed for this purpose. In a north of Ireland context, this would equate to approximately €16.25m per annum.

The Rural Development Regulation also provides for a payment per hectare to be made to farmers in these disadvantaged areas to compensate for all or part of the additional costs and income forgone arising from the biophysical constraints affecting agricultural production.

The Pillar I consultation proposed that support should be provided to ANCs via Pillar I from the 2015 scheme year. The majority of consultation respondents disagreed with this proposal.

Final Decisions

A Pillar I ANC scheme will not be pursued at this stage.

A payment will be made to farmers in the SDA from Pillar II under the Rural Development Programme in 2016 and 2017 (i.e. for claims registered in the 2015 and 2016 scheme years respectively) and reviewed for following years (which would include the affordability of available options at that stage). Eligibility conditions will remain as they are now, but there will be no cattle bonus. Payments rates will be recalculated based on the new Rural Development Regulation.

It is hoped that a one year transitional payment for farmers in the current disadvantaged area can be made (subject to State Aid rules) in 2015/2016.

There are no plans for redesignation of LFAs in advance of 2017.

SUMMARY OF MAJORITY OF REMAINING TECHNICAL DECISIONS
ANNOUNCED ON 11 JULY 2014

1. The threshold for exempting businesses from the compulsory test which applies to those on the negative list (i.e. businesses that operate airports, railway services, waterworks, real estate services or permanent sport and recreational grounds) will be set at €5000. Businesses receiving direct payments at or below €5,000 in a given year will not be subject to this test in that year.
2. No agricultural land in Northern Ireland will be designated as being naturally maintained in a state suitable for grazing and cultivation and, hence, there is no need to define the minimum agricultural activity that must be carried out on such land.
3. Agricultural areas will need to meet certain characteristics which will mirror current eligibility rules in order to be deemed as being maintained in a state suitable for grazing or cultivation.
4. The current framework relating to the conduct of non-agricultural activities on agricultural land will remain unchanged.
5. Date on which land has to be at the farmer's disposal in order to claim direct payments will remain 15 May.
6. The minimum field size of a field (eligible area) that can be used for claiming direct payments will remain at 0.1 ha.
7. The maximum tree density for land to be eligible for direct payments will be set at 50 trees per hectare.
8. The list of tree species that can be used for short rotation coppice to be eligible for direct support payments will remain unchanged (i.e. from within the Genera of Alder, Birch, Hazel, Ash, Lime, Sweet Chestnut, Sycamore, Willow and Poplar).

9. The maximum harvest cycle for short rotation coppice to be eligible for direct support payments will be set at 5 years.
10. The Private Contract Clause by Sale option will be implemented.
11. Private Contract Clause by Lease option will not be implemented.
12. The Windfall Profit Clause option will not be implemented.
13. The value of Basic Payment Scheme entitlements already held by new entrants or young farmers which are below the regional average will be increased to the regional average value in the year of application when making an allocation from the regional reserve.
14. There will be no extension to the coverage of the Farm Advisory System beyond the mandatory requirements set out in EU legislation.
15. Those businesses on the negative list (see 1 above) seeking to demonstrate that they are engaged in significant agricultural activity must show that receipts obtained from agricultural activities represent at least one third of total receipts obtained in the most recent fiscal year for which information is available.
16. Agricultural activity for those on the negative list (see 1 above) shall be considered to be the principal business or company object of a legal person if it is recorded as a principal business or company object in the official business register (or equivalent), with equivalent evidence being required in the case of a natural person.
17. For the purposes of crop diversification (under greening obligations), the crop must be present (or its stubble/residue present to enable the original crop to be identified) during the entire period of 1 June to 31 July each year.
18. For the purposes of crop diversification, different seed mixtures will not be recognised as constituting separate crops. If a farmer grows more than one seed mixture, the seed mixtures will collectively be regarded as one crop.

19. The list of tree species that can be used for short rotation coppice for Ecological Focus Area (EFA) purposes (under greening obligations) will be from the Genera Alder, Birch, Hazel, Ash, Lime, Sweet Chestnut, Sycamore, Willow and Poplar.
20. The use of mineral fertiliser on short rotation coppice used to meet an EFA requirement will not be permitted. The use of plant protection products will not be permitted beyond the end of the second growing season post planting.
21. The nitrogen fixing crops that can be used for EFA purposes will be peas, beans and sweet lupins.
22. These nitrogen fixing crops used for EFA purposes may be grown on any area of arable land (i.e. no additional restrictions will be imposed). However, they must be grown in compliance with the requirements of the Nitrates Action Plan, Cross Compliance Regulations and any other regulatory requirement if they are to count for EFA purposes.
23. In a farm business where two or more young farmers, taken together, constitute the head of holding, then all such young farmers must meet the educational qualification requirements in order for the business to be eligible for the Young Farmers' Scheme. Young farmers in a business who individually or in combination with other young farmers are not head of holding will not be required to meet the educational qualification requirements in order for the business to be eligible for the Young Farmers' Scheme (provided, of course, there is another young person(s) who is head of holding and who possesses the required qualification).

Policy and Economics Division

11 July 2014