



Basic Payment Facts

2018

ENGLAND

**STRUTT
& PARKER**

This briefing is a summary only of the relevant details as of March 2018.

For full information please refer to the relevant RPA guidance handbooks online at gov.uk/rpa/bps2018

1. Rural Payments Agency Registration

Each farm business must have at least one 'Legally Empowered Person' registered with a Customer Reference Number (CRN) on the online Rural Payments service in order to be able to claim any of the CAP schemes. Anyone not already registered can register online using 'Verify' via ruralpayments.service.gov.uk. Once registered, a farmer can authorise an agent to act on his/her behalf, and set individual permission levels.

The Rural Payments Agency (RPA) encourages farmers to complete their claims online but they will send paper forms to those who request them to applicants who submitted a paper BPS claim in 2017.

2. Basic Payment Entitlements

Farmers can check how many entitlements they hold at any given time by checking online. The RPA no longer issues entitlement statements. The person who holds an entitlement on 15th May (midnight) may use it to support a BPS claim.

The rules regarding activation of BPS entitlements state that:

- At least once every two years you must activate ALL your entitlements in a single year
- It is no longer possible to 'rotate' entitlements, so anyone with surplus entitlements will soon lose them

The three English regions are Lowland, SDA (Severely Disadvantaged Area), and SDA Moorland. Each region has its own type of entitlements, which can only be used to activate payments in their own region.

Entitlement values for each region will be calculated in autumn 2018. The RPA will divide the total BPS budget for each region by the number of hectares claimed in that

region. The entitlement value is added to the Greening payment (see 4 below) (plus a young farmer payment if applicable; see 3(g)) to arrive at the full BPS payment rate.

The exchange rate used to convert Euros to Sterling for the 2018 BPS will be the average of the European Central Bank rates set over the month of September 2018.

A. National Reserve

The National Reserve exists to provide BPS entitlements for those who qualify as 'Young Farmers' or 'New Farmers'. See 3(f) and 3(g) below for more information on these.

B. Transferring entitlements

Where transfers of BPS entitlements are initiated online, the transfers will occur almost instantaneously. Transfers may also be initiated using an RLE1 form, in which case the transferor must ensure that the RPA receives the RLE1 before midnight on the 15th May for the transfer to be effective for the 2018 claim. All receipts will be issued online, even where an RLE1 was used.

3. Claiming Basic Payment

The claim deadline for the Basic Payment Scheme is 15th May 2018. Late applications can be submitted up until 11th June, but these will receive a penalty. Applications can be changed until 31st May without receiving a penalty, and changes can be made up until 11th June, but a penalty will be applied to the land parcel which was subject to the change.

A. Active Farmers

From 2018, it is no longer a requirement to be an Active Farmer in order to claim BPS.

B. Eligible Land, Land Use and Land Cover

Land claimed must be eligible for the scheme; this includes any land used for an agricultural activity defined as arable land, permanent grassland and permanent crops.

Farmers must declare on their BPS claim all of the agricultural land parcels on their holding, and they must confirm the correct land use for each land parcel from the list of options provided. If a farmer does not declare all the land parcels on the holding, they may receive a penalty.

In addition to land use, claimants must also check that the correct 'Land Cover' is selected on the online map (permanent grassland, arable, permanent crops, or non-agricultural area). Only land showing as arable land cover will be eligible for EFA under Greening (see 4 below). Land cover cannot be altered online, but in most cases, the RPA will change it swiftly over the phone. In some circumstances, an RLE1 form will have to be submitted.

C. Minimum claim area

The minimum claim area is 5ha. Those with less land – or fewer entitlements – will not be eligible to claim. The minimum parcel size is 0.10ha.

D. Land at your disposal

Land used to activate entitlements must be at the claimant's disposal on 15th May of the scheme year.

It is possible to permit a third party to graze livestock on land which the landowner is claiming to have at their disposal, and a well written cropping licence should also be satisfactory, in some circumstances, on arable land. Written agreements are vital in order to display the rights and obligations of the parties.

E. Dual use

Dual use applies where one farmer is claiming BPS and another farmer or land manager is claiming Environmental Stewardship, Countryside Stewardship or Woodland Grant scheme payments on the same parcel(s) of land. Dual use is permitted for existing Environmental Stewardship and Woodland Grant Schemes. Under Countryside Stewardship, dual use is permitted except for Mid Tier agreements that started on 1st January 2016. For Higher Tier agreements that started on 1st January 2016, dual use is permitted, as it is for Mid Tier and Higher Tier agreements that started from 1st January 2017 onwards. Both parties must meet the scheme rules for the schemes they are under, and evidence for all dual use situations must be kept by both parties.

F. New Farmer

A “New Farmer” - also known as a “new entrant” - can apply for new entitlements. To qualify as a new farmer in 2018, the farmer must:

- be ‘in control’ of the business
- be at least 18 years old
- have started their farming activity in 2013 or later
- have made their first successful BPS application within two years of the year in which they started farming, and
- not have carried out (or been in control of carrying out) any agricultural activity in the five years before the business started.

To qualify, a ‘New or Young Farmer’ certificate must be completed by a solicitor or accountant to confirm they have seen documentary evidence that the claimant qualifies, and be submitted to the RPA by 15th May.

G. Young Farmer payment

A “Young Farmer” is someone who is at least 18 years old but not more than 40 years old in the year of their first BPS application (i.e. they cannot become 41 years old within the first calendar year of claiming the Young Farmer payment). They must be ‘in control’ of the business which is applying for BPS. They must have made their first successful BPS application within five years of taking control of the business.

The Young Farmer payment can be claimed for five years, starting from the year they make their first Young Farmer claim. This means that it is now possible for farmers aged over 40 to claim the Young Farmer payment, providing they met the age criteria in their first year of claim. Their Basic Payment (excluding the Greening element) will be topped-up by up to an additional 25% for the first five years after they started farming or took control of the business. This top-up will apply on up to 90ha only. To qualify, a ‘New or Young Farmer’ certificate must be completed by a solicitor or accountant to confirm they have seen documentary evidence that the claimant qualifies, and be submitted to the RPA by 15th May.

H. Degressivity (Capping)

If a Basic Payment is higher than €150,000 (not including Greening and Young Farmer payments) then the RPA will apply a 5% deduction to any payments above that figure.

4. Greening

The Greening payment is incorporated within the Basic Payment and is made in return for the provision of certain agricultural practices beneficial for the climate and the environment. The measures involved are in addition to the Cross Compliance obligations. Member States use approximately 30% of their National Envelope to fund Greening and the RPA will calculate the Greening rate for each region in autumn 2018.

The Greening measures involve three obligations – Ecological Focus Areas (EFAs), Crop Diversification (CD), and Permanent Pasture, which will apply to all farms unless they qualify for one of the exemptions.

Penalties for non-compliance are proportionate to the extent to which Greening has not been complied with, and are based on a calculation provided by the RPA. If a farmer does not meet either EFA or Crop Diversification rules on three BPS claims (regardless of whether consecutive or not), then in the fourth year they may lose the whole of their Greening payment.

From 2017 onwards, administrative penalties may be applied to those who fail to meet their Greening obligations. These administrative penalties are in addition to the penalties referred to in the paragraph above.

The following Greening exemptions apply:

- Farmers with less than 10ha of arable land are exempt from Crop Diversification (CD);
- Farmers with less than 15ha of arable land are exempt from Ecological Focus Areas (EFA);
- For CD only, if more than 50% of the arable area was not declared by the claimant on their claim in the previous year, AND all of the area concerned is in a different crop to the previous year (this relates primarily to specialist cropping arrangements);

- Land which is registered for organic production or in conversion for organic production;
- More than 75% of the arable land is in temporary grassland or fallow or is used for cultivation of leguminous crops;
- More than 75% of the eligible agricultural area is permanent or temporary grassland.

For the last two exemptions in the list above, there is no longer a requirement for the remaining arable area on the holding to be less than 30ha.

A. Ecological Focus Area (EFA)

Where the arable area of a holding covers more than 15ha, at least 5% of the arable area of the holding must be maintained as EFA.

There are five qualifying options, which count as EFAs:

- › Fallow land
- › Buffer strips and field margins
- › Catch and cover crops
- › Nitrogen-fixing crops
- › Hedges, or trees in a line

These options must be located on the arable land area, with the exception of hedges and trees, and buffer strips and field margins, which must be adjacent to, or within five metres of, the arable land.

EFA CONVERSION AND WEIGHTING FACTORS					
Feature	Unit	Conversion factor	Weighting factor	EFA value (m ²)	Comments
Hedges and trees in a line	/m	5	2	10	Up to 10m wide
Land lying fallow	/m ²	-	1	1	-
Buffer strips and field margin	/m	6	1.5	9	>1m
Catch / cover crops	/m ²	-	0.3	0.3	-
Nitrogen-fixing crops	/m ²	-	1	1	-

Land used for certain EFA options must not be treated with any plant protection products (PPPs), e.g. seed treatments, herbicides, fungicides, insecticides. The ban on PPPs applies during the following timeframes:

EFA option:	Ban on PPPs applies:
Nitrogen-fixing crops	The life cycle of the crop
Land lying fallow	1st January to 30th June 2018
Catch crops	20th August to 14th October 2018
Cover crops	1st October 2018 to 15th January 2019

i. Fallow land

Fallow land is land which has no crop production or grazing on it, but which is nevertheless maintained in a state suitable for grazing or cultivation.

- Such land will have to remain in fallow throughout the period 1st January to 30th June in order to comply for EFA (and throughout the period 1st May to 30th June inclusive in order to comply for CD).
- Minimum width is 2 metres and minimum area is 0.01ha.
- One hectare of fallow land provides one hectare of EFA.
- No crops other than wild-bird seed mixes or nectar sources (which in both cases must be an unharvestable mix of at least two crops that support wildlife and pollinators) can be planted on such land during the fallow period; such mixtures cannot be harvested or grazed (either during or after the fallow period).
- Grass can only be sown during the fallow period where it is specifically required under an agri-environment scheme.
- Temporary grass can be located on 'Fallow Land' as long as no agricultural production occurs during the period (thus grass used as 'Fallow' can be grazed or ensiled after 30th June).
- Fallow can be topped during the fallow period but it cannot be sprayed, fertilised or cultivated.
- Land cannot be declared as fallow if straw bales, silage, muck or farm machinery is stored on it.

- Land containing crops drilled the previous autumn which have failed can be used as fallow, providing the fallow rules (including ban on PPPs) can be met during the fallow period.

If using Fallow land for CD only, the rules are less restrictive, particularly with regard to spraying and cultivating.

Despite speculation to the contrary early in 2018, the RPA guidance has confirmed that land used as EFA Fallow will remain arable, even it has been fallow with a grass cover for 5 years or more. This may change in future years.

ii. Buffer strips and field margins

From 2018, uncultivated field margins will count alongside buffer strips, and this option is now eligible in all arable land parcels, not just those next to a watercourse. Buffer strips and field margins still have separate definitions:

- Buffer strips must be at least 1 metre wide, located next to or within 5 metres of arable land, and on the arable side of the watercourse.
- Field Margins must be at least 1 metre wide, located next to or within 5 metres of arable land, and against the permanent field boundary or an internal landscape feature within the field.
- Such strips will count as 9m² per metre length regardless of actual width, so a 1,000 metre length equates to 0.9ha.
- If next to a hedge, the field margin must be measured from the edge of the hedge, and it must not be obstructed by the hedge canopy for the full scheme year.
- The field margin can overlap with the Cross Compliance protection zone (which is 2 metres wide, measured from the centre of the hedge).
- Buffer strips and field margins may be separated from arable land by a manmade feature (e.g. a fence), a landscape feature (e.g. a hedge), or a feature that is ineligible for BPS (e.g. a track).

- It is permitted to have both a buffer strip immediately alongside the watercourse and also an in-field buffer strip. However, if there is a hedge alongside the watercourse which is carrying out the function of a buffer strip, this can be used for EFA as a hedge but cannot also count as a buffer strip.
- No production can take place on the buffer strip or field margin – i.e. no cultivations, fertilising or spraying operations can occur – although grazing or cutting is allowed in some cases.
- If claiming as EFA fallow land alongside a buffer strip or field margin, these areas must be “visually distinguishable” from each other during the fallow period (1st January to 30th June) and they must either have different vegetation, vegetation of different heights, or clearly different management regimes.

iii. Catch and cover crops

These must be a sown mix of at least two different cover types – one a cereal, the other a non-cereal – which establishes and grows quickly, achieves ground cover, has differing rooting depths and will utilise available nutrients. However, as an alternative, grass can be used as either catch or cover crop as long as it was under sown in the previous crop and it is sufficiently established by the start of the catch or cover crop period.

- One hectare of catch or cover crop provides 0.30 hectares of EFA.
- Permitted crops in a sown mix are rye, barley, oats, phacelia, oilseed radish, vetch, mustard and lucerne ONLY.
- Stubble turnips and kale are not included as these are usually grazed.
- Cover crops must be planted by 1st October and retained until at least 15th January following.
- Catch crops must be planted by 20th August and be retained until at least 14th October.

- Where a catch or cover crop is under sown in a growing crop, the relevant period runs from the date of harvest of the main crop until the next main crop is sown, even if this results in a shorter timeframe than the dates set out above.
- These crops will count towards the EFA obligation for the year in which grown (i.e. to count for 2018, the crops would need to be planted in autumn 2018).

iv. Nitrogen-fixing crops

Such crops include legumes grown as arable crops, such as beans or peas, and also pasture legumes (e.g. clover, lucerne and sanfoin).

- One hectare of nitrogen-fixing crop provides 1 hectare of EFA.
- Nitrogen-fixing crops can be sown as part of a mix with other crops, providing the nitrogen-fixing crop makes up at least 51% of the 'plants in the ground'.
- The crop must be in the ground during the inspection period (1st May – 30th June).
- For multi-annual nitrogen-fixing crops, the ban on plant protection products applies from 1st January to 31st December, unless the crop is destroyed during the year, in which case the ban will apply up until the final harvest is taken.

v. Hedges and trees in a line

A 1,000 metre length of hedge or trees equates to 10,000 m² – or 1.0ha – of EFA land area.

To qualify:

- The hedge must be located on or within five metres of arable land along its longest edge. It may be separated from the arable land by a feature that is ineligible for BPS (e.g. a track).
- A hedge must be a continuous length of at least 20m; this can include gaps (including gateways) so long as each individual gap is not more than 20m. There is no limit as to how many gaps there can be.

- Trees in a line must be a single row of trees situated on the boundary line of the parcel and must consist of at least three trees. Woodland edges do not apply.
- A hedge can have a continuous length of less than 20m where it meets another hedge at each end (at an intersection or junction).
- Hedges for EFA can be any width and any height. Newly planted hedges and trees can count for EFA if they are in the ground when the BPS application is made.

If the farmer has arable land at his disposal on both sides of the hedge or line of trees, he can claim on the whole hedge or line of trees (i.e. 10 m² per metre run). If both sides of the hedge or line of trees are at his disposal, but there is arable land on one side and non-arable crop/land on the other side, he can nevertheless still claim the full rate (of 10 m²); but if the farmer is responsible for the arable side only, he can only claim on one half of the hedge or line of trees (i.e. 5 m² per metre run).

B. Crop Diversification (CD)

A farmer with arable land must:

- cultivate at least two crops on that land where the area exceeds 10ha but is less than 30ha, or
- cultivate at least three crops if the arable land area exceeds 30ha.

The main crop must not cover more than 75% of the area, and the two main crops together must not exceed 95% of the area. Winter and spring planted crops of the same species will qualify as different crops; temporary grassland/forage and fallow land will qualify as arable crops. However, beware that certain brassica crops (e.g. cabbage and cauliflower) are treated as the same crop.

These two or three crops must be in place for the “inspection period”, namely 1st May to 30th June each year. If a crop has been harvested prior to 30th June, the existence of a stubble or crop residue can provide evidence of the crop concerned. Some farmers will opt to grow late sown crops or crops with a short cropping period; in these cases farmers should keep evidence such as seed labels and photographs.

For both CD and EFA purposes, temporary grass counts as an arable crop; land with outdoor pigs is classified as temporary grassland (unless so used for more than five years). Thus, “arable land” includes land cultivated for crop production (including combinable crops, roots, maize, vegetables, cut flowers, bulbs and soft fruit), fallow land and temporary grassland – but excludes permanent grassland and permanent crops.

C. Permanent grassland

Permanent grassland is land which has been used to grow grasses or other herbaceous forage (that has not been included in the crop rotation) for five years or more. It can be self-seeded or sown. It will automatically be recorded as permanent grassland on the sixth SPS/BPS application on which it is recorded as grass/herbaceous forage. Herbaceous forage does not include forage maize, kale or fodder root crops, all of which are arable crops for this purpose. If the percentage of permanent grassland relative to the total area of agricultural land in England falls by more than 5%, then farmers who have ploughed it may have to reinstate it. (This calculation will exclude land lost to afforestation, other than Christmas trees, short rotation coppice or trees for energy production.) Note that this obligation is in addition to the Environmental Impact Assessment Regulations (EIA Regs.), which already limit the ability to plough up permanent grassland.

D. Greening and Environmental Schemes: ‘Double Funding’

There is potential for the new EFA obligations to overlap with existing Entry Level and Higher Level Stewardship Scheme – and now Countryside Stewardship Scheme – obligations. Where this occurs, there can be no “double-funding”. However, DEFRA had already undertaken not to penalise farmers opting to enter into stewardship schemes before the October 2011 Reform announcement was made. Consequently, farmers with land in an HLS scheme, or an HLS scheme underpinned by an ELS that started prior to that date, are able to continue those schemes with full payment and count relevant qualifying features towards their EFA obligation.

Farmers with an ELS agreement (including Organic ELS) that started after 1st January 2012, and farmers with a CSS agreement that contains any of the double-funded arable options, will see a reduction in the value of their stewardship payment.

5. General

A. Flexibility

Flexibility is the mechanism which enables transfers of funds from Pillar 1 to Pillar 2.

Member States are permitted to transfer up to 15% of the Pillar 1 budget, and in England the transfer rate is currently 12%.

The budget is transferred before the Basic Payment rate is calculated to individual farmers and so it does not appear as a separate deduction on the Claim Statement.

B. Financial discipline

This mechanism – designed to create a ‘crisis reserve’ – is applied on all payments over €2,000, and in 2017 the deduction amounted to 1.388419%. Any funds left unspent at the end of the year are returned to farmers.

6. New UK Agricultural Policy

WHAT WE KNOW SO FAR

In February 2018, DEFRA published its consultation paper on the future for food, farming and the environment, outlining its vision for what it deems a “Green Brexit”.

The foreword says that the Government plans to seize the once-in-a-generation opportunity that leaving the EU presents to reform agriculture, with the overarching goal being to change the way land is used, to promote “health and harmony”.

See overleaf our 5 main points of the new policy.



Contact our Farming Team for more detailed analysis and advice on the steps that you should be taking to prepare. In the meantime, these are some of the main points:

AT A GLANCE

Direct Payments in England will be completely phased out, by the end of an 'agricultural transition' period, which is of unspecified length.

The new policy will be underpinned by payment of **'public money for the provision of public goods'**, with the principal public good being environmental protection and enhancement.

There is a strong message that **land managers will be expected to help themselves, through training, benchmarking and risk management, so the industry is more self-reliant in the long-term.**

There will be a **review of the inspection regime, including cross-compliance, but no lowering of British animal and plant health standards.**

The Government continues to view **technology and better use of data as a way of overcoming some of the challenges currently facing the sector, and improving agricultural productivity.**

Date Diary for 2018 Basic Payment Scheme

<i>January</i>	1st	Start of BPS
	1st	End of closed period for applying high N organic manure to grassland and tillage land with shallow or sandy soils (but quantity restrictions for application of high N manures still apply) (SMR 1).
	1st	Start of period for calculating the annual livestock manure limit. Risk map must be completed if you spread organic manure on your holding. (GAEC 1 & SMR 1.)
	1st	EFA fallow land to be in place from this date.
	15th	EFA cover crops must be retained until at least this date.
	16th	End of closed period for spreading manufactured N fertilisers on grassland and tillage land. (SMR 1.)
<i>February</i>	1st	End of closed period for applying high N organic manure to grassland and tillage land on all soil types (but quantity restrictions for application of high N manures still apply). (SMR 1.)
<i>March</i>	1st	From this date, you must not cut hedgerows or trees (although coppicing and hedge laying can continue until 30th April (GAEC 7A and 7C), or cast up traditional hedgebanks. (GAEC 7A.)
	1st	End of quantity restrictions for applications of high N organic manures. (SMR 1.)

Date Diary for 2018 Basic Payment Scheme

<i>April</i>	1st	The Environment Agency will make abstraction return forms available to those with winter, or all year round, abstraction licences. These need to be returned within 28 days. (GAEC 2.)
	1st	You must not burn heather, rough grass, bracken, gorse or vaccinium on land other than in upland areas, from this date. (GAEC 6.)
	16th	You must not burn heather, rough grass, bracken, gorse or vaccinium in upland areas from this date. (GAEC 6.)
	30th	You must have recorded the number of 'specified' livestock kept on the farm during the previous calendar year and calculated the amount of N they produced. (SMR 1.)
<i>May</i>	1st	You must not carry out hedge laying or coppicing from this date. (GAEC 7A.)
	1st	EFA nitrogen-fixing crops to be in place from this date.
	1st	Start of cropping and fallow period for crop diversification rules.
	15th	Closing date for notifying the RPA of Entitlement or land transfers to take effect for the 2018 claim year.
	15th	Closing date for BPS applications (without incurring penalties).
	15th	Deadline for RPA to receive evidence for active farmer, young farmer or new farmer status.
	31st	Final date for making certain amendments to your 2018 BPS application without incurring penalties.

Date Diary for 2018 Basic Payment Scheme

<i>June</i>	11th	Final date for submitting, or amending your 2018 BPS application (penalties will be incurred).
	30th	Payment window for 2017 BPS closes.
	30th	EFA Fallow land and nitrogen-fixing crops may be removed after this date.
	30th	End of cropping and fallow period for crop diversification.
<i>August</i>	1st	Start of closed period for applying high N organic manure to tillage land on shallow or sandy soils except where crops will be planted before 15th September. (SMR 1.)
	1st	Farmers who have been granted a derogation under GAEC 7A will be able to cut hedges from this date.
	20th	EFA catch crops must be established by this date.
<i>September</i>	1st	You can cut hedgerows and trees from this date (GAEC 7A and 7C), and cast up traditional hedgebanks. (GAEC 7A.)
	1st	Start of closed period for: <ul style="list-style-type: none"> - Applying manufactured N fertiliser to tillage land (SMR 1), and - Spreading high N organic manure on grassland with shallow and sandy soils. (SMR 1.)
	15th	Start of closed period for applying manufactured N fertiliser to grassland. (SMR 1.)
	1st - 30th	The exchange rate used to convert Euros to Sterling for the 2018 BPS will be the average of the European Central Bank rates set over the month of September 2018.

Date Diary for 2018 Basic Payment Scheme

<i>October</i>	1st	You may burn heather, rough grass, bracken, gorse or vaccinium on land in upland areas from this date. (GAEC 6.)
	1st	EFA cover crops must be established by this date.
	1st	Start of closed period for spreading high N organic manure to tillage land on soils which are not shallow or sandy. (SMR 1.)
	14th	EFA catch crops can be removed after this date.
	15th	Start of closed period for spreading high N organic manure to grassland on soils which are not shallow or sandy. (SMR 1.)
	31st	The Environment Agency will make abstraction return forms available to those with summer abstraction licences. These need to be returned within 28 days. (GAEC 2.)
<i>November</i>	1st	You may burn heather, rough grass, gorse or vaccinium on land other than in upland areas from this date. (GAEC 6.)
<i>December</i>	1st	You need to carry out your annual inventory of sheep. (SMR 8.)
	1st	Payment window opens for BPS 2018 claims.
	31st	End of Basic Payment scheme year.

The Strutt & Parker Farming Department operates throughout the UK, offering a tailored management and consultancy service, including:

- Farm management
- Farming advice and consultancy
- Strategic business advice
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- Basic Payment scheme
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- Farming recruitment
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