

Guide to Land Eligibility

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Department of
**Agriculture, Environment
and Rural Affairs**

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1. Key Dates to Remember

- 1.1 The Guide to Land Eligibility is no longer year specific (i.e. where a date falls on a Saturday, Sunday, Public or Privilege Holiday we have not adjusted the date). You must refer to the DAERA website for further guidance on key dates for 2020.

2. UK Exit from the EU (Brexit)

2.1 Legislation

The Withdrawal Agreement setting the terms for the withdrawal of the UK from the EU disapplies the EU direct payments regulation (Regulation No. 1307/2013) and associated regulations in the UK for the 2020 scheme year. However, the Withdrawal Agreement requires the UK to operate direct payments schemes in 2020 which are equivalent to the EU schemes. Therefore the EU direct payment regulations are reapplied in UK law for the 2020 scheme year by the Direct Payments to Farmers (Legislative Continuity) Act.

Consequently the arrangements for direct payments in the 2020 scheme year replicate those for the 2019 scheme year, other than the changes arising from the EU Exit which are outlined in this guidance, and 2020 scheme year payments will come from national funds and not EU funds.

References in this guidance and on the single application to EU direct payment regulations are to be taken as references to those provisions, as retained in UK law, for the 2020 scheme year by the Direct Payments to Farmers (Legislative Continuity) Act and corresponding secondary legislation.

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Section 1 Introduction

This guide explains land eligibility rules for the:

- Basic Payment Scheme (BPS).
- Young Farmers' Payment
- Greening Payment
- Environmental Farming Scheme (EFS)

You are advised to read the guide carefully as you may be penalised if you claim under any of the above schemes for land that is not eligible.

It should be read in conjunction with:

- **Guide to the Basic Payment Scheme.**
- **Guide to the Greening Payment.**
- **Guide to the Young Farmers' Payment/Regional Reserve.**
- **Environmental Farming Scheme (Wider) and (Higher) Terms and Conditions.**
- **Forestry Grant Schemes Information Booklet.**
- **Guide to Business Changes.**
- **DAERA Identification numbers for business customers, herds and flocks.**
- **Guide to Transfer of BPS Entitlements.**
- **Cross-Compliance Verifiable Standards Booklets (Full Version and Summary).**

You can also access the **Area-Based Schemes Single Application and Map - Questions and Answers document** which will help you complete your Single Application at:

<https://www.daera-ni.gov.uk/publications/how-complete-your-single-application-online-2020>

Copies of all booklets are available online at <https://www.daera-ni.gov.uk/articles/area-based-schemes-2020-guidance-and-forms>

It is your responsibility to ensure that you only claim on eligible land and deduct all ineligible areas irrespective of what is indicated on your map.

This guide is not a full statement or interpretation of the law (which only the European Court of Justice can give) and it cannot replace specific advice on specific questions.

Farm Maps

Certain features which are not eligible for the Basic Payment Scheme (BPS) are shown on your map as purple hatching. A description of the feature is provided in the Field Information Table that accompanies the map. These ineligible features have been deducted from the total area of the field to produce a Maximum Eligible Area (MEA) for each field. However you may need to make further deductions to the MEA.

Man-made (hard) ineligible features e.g. buildings, yards or lanes, are shown on your map if they are 0.001ha (10m²) or larger. Other (natural) ineligible features e.g. scrub are only shown if they are 0.01ha (100m²) or larger. Ineligible features smaller than this, and any temporary ineligible features, are not shown on your map but should still be taken into account when claiming for the BPS.

DAERA no longer routinely issues farm maps. You should therefore check DAERA's Online Single Application and Map service available on DAERA online services for the most up-to-date map for each field that you are farming. Any changes made to your field boundaries and features after October of last year may not be visible on the DAERA's Online Single Application and Map. If you received an area record form (ARF) letter after this time please check it to determine the latest MEA and field size DAERA holds for each field. Please contact your local DAERA Office if you require further guidance. Paper maps can still be obtained by contacting the SA Advisory Team on 0300 200 7848 or by emailing us on areabasedschemes@daera-ni.gov.uk.

Maps are updated on a rolling cycle using aerial photography. However, you should not assume that the MEA provided is necessarily still correct. It is your responsibility to ensure that the MEA remains an accurate reflection of the situation on the ground.

If your map needs to be updated you can inform us about changes using DAERA's on-line Single Application and Map service. More information on DAERA online services is available at <https://www.daera-ni.gov.uk/services/daera-online-services>.

Key Messages when claiming land for BPS

Inspections in recent years have highlighted that businesses continue to claim land that does not meet the land eligibility criteria resulting in penalties which can include the loss of the entire payment.

It is important to note following:

- Land must be in agricultural use and there must be evidence of this at inspection e.g. grazing, cutting, flailing, burning (heather).
- Placing small numbers of animals on areas of bogland/heather moorland is unlikely to make these areas eligible. Penalties amounting to 100% of the claimed amount may apply to claims where there is little or no evidence of agricultural activity taking place.
- Land that no longer meets the usual eligibility rules for BPS due to specific Agri Environment prescriptions or management implications relating to designated sites e.g. Areas of Special Scientific Interest (ASSIs), may be eligible. Evidence to support this will be required in the event of inspection. More details are under “**Land becoming ineligible as a result of EU Directive implementation**” on page 36.
- All field boundaries, including commons, must be clearly demarcated on the ground to avoid delays in claim processing. Please refer to Section 3 for further details.
- The same eligibility rules apply to common land as for non-common land. There must be evidence of agricultural activity taking place across the entire common otherwise deductions will be made and applied equally to each of the shareholders.

Section 2 General Conditions

Overview

You must only claim aid on eligible land.

Eligible land must be:

1. A field parcel which is at least 0.1ha in size with a physically recognisable boundary;
2. Covered in eligible vegetation, be under your control and meet the conditions outlined in this booklet from January to December;
3. Used for agricultural activity in a significant and consistent basis during the year;
4. At your disposal on 15 May; and
5. Maintained in Good Agricultural and Environmental Condition (GAEC) with evidence of agricultural activity at inspection e.g. flailing/burning etc.

1. **Field Parcel Size** - any individual field or area within a field that you declare for payment must contain at least 0.1ha of eligible land. Physical boundaries include a range of features such as permanent fences, walls, hedges, banks, metalled roads and water bodies or courses greater than 2m in width. A more comprehensive description of field boundaries is included in Section 3.
2. **The area must be comprised of eligible vegetation** - eligible vegetation includes any land that is classified as permanent grassland, arable land or permanent crops.

a) Permanent Grassland

Permanent grassland is land used to grow grasses or other herbaceous forage (this can be self-seeded or sown) and that has not been used for an arable crop in the previous five years or more. In effect, this relates to six years (i.e. the current and previous five years). Therefore, if for example, you declared the land use of your fields on your online application as FR1 (grass) in six consecutive years they will be classified as permanent grassland in the year of the sixth application.

If permanent grassland is ploughed and re-seeded immediately with grass or other herbaceous forage, it will still be classified as permanent grassland.

Remember, however, that you cannot plough and/or convert permanent sensitive grassland in environmentally sensitive areas.

Other herbaceous forage includes only the following crops; clover, lucerne, sainfoin and forage vetches.

Grazed heather that meets the eligibility conditions (see pages 31 - 34) is also classified as permanent grassland. Wildfires or burning more than 20% of the heather area is not considered as controlled burning and therefore is not agricultural activity. If the fire is due to a reason beyond your control, you may submit a force majeure application within 15 working days of the event (of being in a position to do so) for consideration.

b) Arable land

Arable land is land used to grow crops other than grass and permanent crops such as orchards, short rotational coppice, miscanthus, ornamentals and nurseries, and multi-annual crops. Forage crops such as maize, fodder beet, fodder rape, stubble turnips or any cereal crop used for forage are also regarded as an arable crop use. Sainfoin, clover, lucerne and forage vetches are regarded in the same way as grass and therefore are not deemed to be an arable use.

If your land will be used to grow an arable crop in this scheme year or has been used to grow an arable crop in any of the previous five years, then it will be classified as arable in this scheme year. Land used to grow grass in this scheme year but which has been used to grow an arable crop in any of the previous five years, i.e. temporary grassland, will also be classified as arable in this scheme year.

Areas available for crop production but lying fallow, including areas set aside under EU schemes, in any of the previous five years will also be classified as arable land. Fallow land in grass for six consecutive years will be classified as permanent grassland if it is not used as an ecological focus area.

c) Permanent crops

Permanent crops are non-rotational crops other than permanent grassland that occupy the land for five years or more and yield repeated harvests. The most common examples of permanent crops are orchards, short rotational coppice, miscanthus, ornamentals and nurseries, and multi-annual crops. Land used to grow these in this scheme year will be classified as permanent crops.

Details of land eligible for BPS can be found at Annex A. Eligibility of specific land types can be found in Section 4.

Remember, you must deduct all ineligible areas from the total area of the field and only claim for the eligible area. If the total ineligible area of the field does not exceed 0.01 ha (100 m²) then no deduction is required.

For BPS, the land must be at your disposal on 15 May and must be used for an eligible agricultural activity for the entire calendar year (1 January - 31 December), except in cases of force majeure or exceptional circumstances.

Land is only eligible for the Greening Payment and the Young Farmers' Payment if it is also eligible for BPS.

3. Used for agricultural activity in a significant and consistent basis during the year.

The EU defines 'agricultural activity' as:

- (i) the production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes;
- (ii) maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries.

Land is only eligible for BPS if the vegetation is kept in a state suitable for grazing or cultivation and agricultural activity is carried out over the entire area being claimed on a significant and consistent basis in the calendar year of the claim.

At inspection DAERA will look for evidence of at least one of the following agricultural activities being carried out on all of the land being claimed:

- Grazing e.g. paths made by animals, animal droppings;
- Growing and harvesting a crop;
- Management of the vegetation such as flailing or controlled burning of heather.

Consequently for the land to be eligible it must be accessible for livestock and/or farm machinery. Where agricultural fields or parts of agricultural fields are covered with impenetrable or ineligible vegetation or inaccessible to grazing livestock or are not in agricultural use, they will be considered ineligible.

Placing small numbers of animals on large areas of bogland or heather is unlikely to make these areas eligible. In relation to land which is in an Agri-environment agreement and subject to a low maximum stocking density and other grazing restrictions, you are advised to maintain a stocking density close to the maximum level permitted during most of the prescribed grazing period and ensure that the entire area is grazed in order for it to be considered eligible.

Areas on which there is no grazing activity may still be eligible if other agricultural activity such as mowing or flailing of the vegetation is being carried out.

Similarly, the presence of animals on these areas for a short period is unlikely to make them eligible. Land being claimed must be eligible for the entire calendar year.

If evidence of agricultural activity is only present on part of a field, then the remainder of the field will be ineligible.

4. Land must be at your disposal on 15 May

For BPS land must remain in an eligible condition for the entire calendar year. For EFS you must have management control of the land for the entire calendar year (i.e. from 01 January to 31 December).

5. Land must be maintained in Good Agricultural and Environmental Condition

All agricultural land within a business, irrespective of whether it is used to claim BPS entitlements or claim payment under another aid scheme, must be maintained in accordance with the Cross-Compliance Statutory Management Requirements (SMRs) and must be maintained in Good Agricultural and Environmental Condition (GAEC). In addition Cross-Compliance applies to all the agricultural activities you undertake.

The full set of Cross-Compliance requirements can be found in the [Northern Ireland Cross-Compliance Verifiable Standards 2020 booklet](#).

Land eligible for Environmental Farming Scheme (EFS)

Not all land eligible under EFS is eligible for BPS. See Section 7 of this guide for further information.

How DAERA will check your claim

EU legislation requires land to be eligible for the full calendar year of your claim and not just part of it. DAERA will check the eligibility of your claim by conducting On the Spot Checks (OTSCs) on your land. These will be conducted using Control with Remote Sensing (CwRS).

At a particular time during the year, a number of satellite images will be taken of your declared area. Your field parcels will be later assessed and compared to your claimed areas.

In addition if further clarification is required we may conduct Rapid Field Visits (RFVs) or Follow-Up Ground Checks (FUGCs). These are completed by an inspector visiting a particular field to confirm eligibility.

If your claim is selected for an OTSC an assessment will be made as to whether the land meets the eligibility conditions on the day of inspection or date the satellite imagery was captured. If the OTSC determines that the land is ineligible it will be considered ineligible for that scheme year and penalties may be applied to your claim.

The OTSC may also consider whether your land was ineligible in previous years using aerial photography or other available information. If the OTSC indicates that land claimed in previous years was ineligible, penalties may be applied retrospectively. Any action you undertake on land found ineligible at inspection will only be taken into consideration in the next scheme year.

Summary

It is your responsibility to ensure that you only claim on eligible land and that you deduct all ineligible areas irrespective of what is indicated on your latest map.

You should give very careful consideration to claiming areas which do not make a significant contribution to the agricultural activity of your business as there is a high probability that these areas are ineligible.



Land not in agricultural use is not eligible

Section 3 Field Boundaries and Landscape Features

Once you are satisfied that the field parcel you are intending to claim on meets the minimum area requirement of 0.1ha, you should then consider eligibility of the field boundaries and landscape features.

What is DAERA's definition of a boundary?

DAERA field boundaries are mapped to the following types of physical features:

- Permanent fence (including post and wire fence)
- Wall
- Hedge
- Bank
- Metalled road (tarmac, concreted or compacted)
- Edge of a body of fresh water e.g. a lake
- Edge of a river or stream where the body of water is greater than 2 metres wide
- Edge of trees in arable land
- Sheughs
- High Water Mark Mean Tide
- International boundary as shown on Land and Property Services (LPS) (formerly Ordnance Survey NI) map
- Top of cliff or rock face

The eligibility of field boundaries should always be considered in conjunction with the guidance on ineligible features present along a field boundary.

Field Boundary Marker Features

Marker features (conforming to DAERA's requirements) will only be recognised as a field boundary where it is not possible to erect a fence. This may apply to the following situations;

- Where fencing is not allowed or would cause unacceptable environmental damage e.g. on an Area of Special Scientific Interest.
- Where the land is not accessible to bring fencing materials to it, e.g. up a mountain, or surrounded by bog, but is itself eligible.

- Where, in mountain or upland areas, the length of boundary to be demarcated is in excess of one kilometre in any one parcel.
- If the ground is too hard or soft to drive posts - although this might suggest that the land is ineligible.
- Where, in mountain or upland areas, there has been no history of fencing along or near that particular boundary.
- Where it is used to divide an arable field in which different crops are being grown by different farmers.

Marker Posts

- Wooden posts are the first choice (e.g. for ease of sourcing and relative ease of transport to inaccessible areas) and others (concrete, plastic etc.) considered where it is not possible to erect wooden posts or where this is not permitted for environmental reasons.
- A wooden post (preferably plastic-sleeved) with a
 - i. minimum dimension of 150mm / 6"; and a
 - ii. minimum of **1.5m / 5ft of post to remain above the ground**
- The post should be painted/re-painted e.g. black and white ring stripes.
- The distance apart will be dependent on achieving **direct line of sight** between each post.
- Posts should be given an identity. This identity is used to attribute the GPS point taken to indicate the post's location.

Concrete Slabs

- Where no post could be erected, a concrete slab with minimum dimensions **450mm x 450mm (18" x 18")** should be used, with its identity scribed into the concrete while wet.
- Slabs may be painted black/yellow and white to make them more visible.

Marker Stones

- These are not acceptable where posts or a concrete slab could be used.

If, however, there are existing permanent stones along the boundary, these may be acceptable as a marker feature if given an identity as per marker posts.

Landscape Features

Landscape features in the context of Good Agricultural and Environmental Condition (GAEC) comprise of dry stone walls, ditches or sheughs, hedgerows, including trees in hedgerows, earthbanks and archaeological sites.

Hedges, earthbanks, fenced off hedges, and stone walls are eligible provided their width does not exceed 2m from the centre (measured at the base) and where there are no ineligible features present in or adjacent to the boundary. Where the whole width of these boundaries exceeds 2m from the centre, the entire area becomes ineligible. Only features meeting the GAEC definition of a landscape feature as set out below and located in, or forming the boundary of an agricultural field parcel can be considered eligible for BPS and other schemes.

Landscape features are protected under GAEC and must not be removed except by prior written permission from DAERA.

Hedges, earthbanks, stone walls, archaeological sites (historic monuments)

The GAEC definition of a hedge or hedgerow is as follows:

A hedgerow is an in-field or boundary linear feature with hedge-like shape and characteristics. Scrub encroachment and weeds such as nettles and thistles do not constitute a hedgerow. A hedgerow does not have to be stock-proof but must be at least 5m long with a maximum width of 4m. A hedgerow must consist of woody material and includes classic shrubby hedgerows, lines of trees, shrubby hedgerows with trees and gappy hedgerows where any gap less than 5m wide at canopy level is taken to be part of the hedge. Newly planted hedges, must reach this standard when fully grown.

The GAEC definition of an earthbank is as follows:

An earthbank is a man-made linear feature of limited occurrence, usually made up of a core of stones covered with sods. River banks, earth silo banks or mounds of earth resulting from excavation are not classified as earthbanks.

The G

AEC definition of a dry stone wall is as follows:

A dry stone wall is a linear in-field or boundary feature built without the use of cement/mortar with the exception of the capping layer. A dry-stone wall does not have to be stock-proof and may have gaps up to 3m within it. To be a dry stone wall the feature must be at least 3m long.

The GAEC definition of an archaeological site in the context of GAEC is as follows:

An historic or archaeological site is one identified by the Department for Communities in the Northern Ireland Sites and Monuments Record.

The location of and advice on an archaeological site can be obtained from:

www.communities-ni.gov.uk/services/historic-environment-map-viewer

or contacting Historic Environment NI on 028 90819 266.

Sheughs

The definition of a ditch or sheugh is as follows:

A ditch or sheugh is an open channel with water in it for at least part of the year and no more than 2m wide at the base.

Where a sheugh is at the boundary of a field which is eligible, the sheugh, as an open trench dug to improve the drainage of agricultural land, may be considered eligible and included in the area of the field.

In addition, sheughs should meet the following criteria to remain eligible:

- They must be maintained as part of a field parcel drainage system and not be encroached by scrub or other ineligible vegetation or features.
- They must have continuously or intermittently running water.

Designated streams, rivers and watercourses

Any designated streams, rivers and watercourses maintained by the Rivers Agency are ineligible as are all other naturally flowing streams and rivers of any width.



Sheughs are eligible.

Sheughs associated with another boundary feature, for example hedge, wall, or bank

If a hedge, wall or bank is associated with a sheugh, you measure each feature separately. The sheugh is eligible. The hedge, bank or wall is also eligible if it is 2m wide or less from the centre of the boundary measured at the base.

Fences alongside sheughs

The presence of a fence in the field alongside a sheugh does not affect eligibility provided its sole purpose is to protect the sheugh and it is located no more than 1m from the top of the bank of the sheugh. If the fence is greater than 1m from the top of the bank of the sheugh and the area enclosed by the fence is is not a riparian zone or riparian buffer under an Agri-environment scheme agreement, the area between the fence and the field boundary (including sheugh and hedge if present) may be ineligible.

This fenced off sheugh is eligible as there is less than 1m between the top of the bank of the sheugh and the fence



Fences erected to comply with Water Framework Directive

Land next to a river that has been fenced off as a result of the Water Framework Directive and no longer meets the eligibility requirements for BPS, may be deemed eligible where the land was claimed and on which SFP was paid in respect of 2008.

Presence of ineligible feature along a boundary

In some cases an ineligible feature may be present at a field boundary. Examples can include scrub vegetation or a lane.

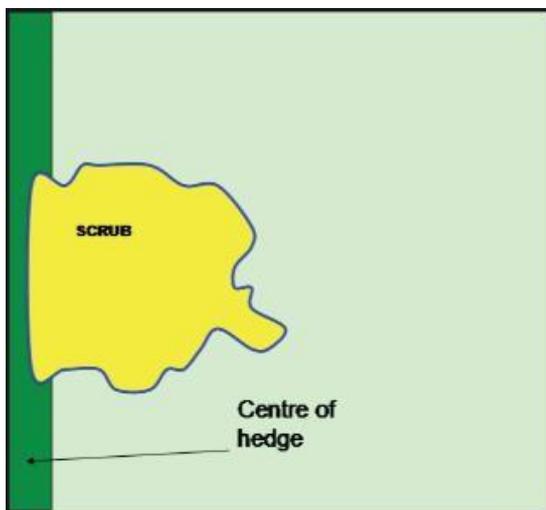
Where an ineligible feature is present at a field boundary, areas taken up by hedges and sheughs (if present) located between the ineligible feature and the field boundary line must also be deducted.

In other words, the area deducted must extend to the field boundary line which may be in the centre of the hedge.

An ineligible feature is deemed to be present at a field boundary if it is located within 2m of the field boundary feature (for example, the edge of the base of a hedge or fence or the top of a bank of a sheugh). Even if it is possible for cattle to graze up to the hedge, you must still deduct the ineligible feature and the entire area between the ineligible feature and the field boundary line.

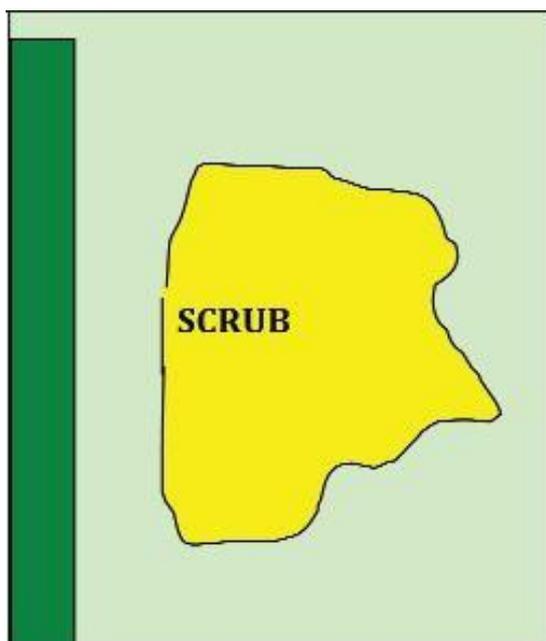
If an ineligible feature is fenced off from the field and the area between the ineligible feature and the field boundary is not used for agricultural purposes, then in most cases you must move the field boundary to the fence. See Example 3 below.

Example 1



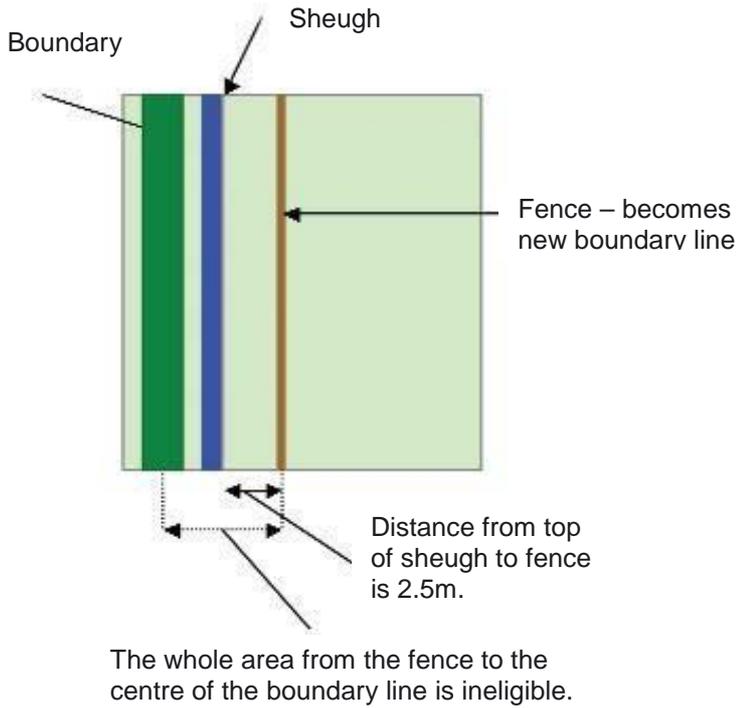
There is a patch of scrub/whin in the middle of a hedge such as in the diagram. You need to make a deduction for the scrub right back to the field boundary line which may be in the centre of the hedge.

Example 2



In this case the scrub is more than 2m away from the boundary. You still have to make a deduction for the scrub (see section on scrub on pages 18-19) but you do not have to take the area back to the field boundary line.

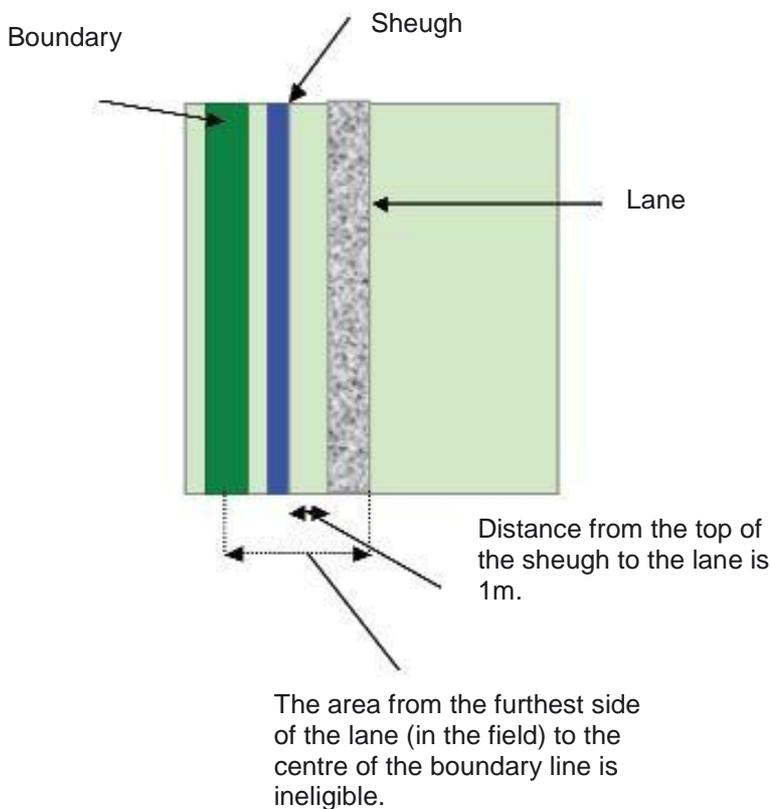
Example 3



In this example, the fence is 2.5m from the top of the bank of the sheugh. As the fence is more than 1m from the top of the bank of the sheugh, and the area between the fence and the field boundary is not a riparian buffer then the field boundary should be moved to the fence.

Consequently the whole area from the fence right back to the centre of the hedge is ineligible.

Example 4



In this example, there is a lane 1m from the top of the bank of the sheugh. As the lane is less than 2m from the top of the bank of the sheugh, it is considered as an ineligible feature at the field boundary.

Consequently the whole area from the lane right back to the centre of the hedge is ineligible

Removal of a Landscape Feature

A landscape feature can only be removed if prior written permission (a derogation) has been given from DAERA. This includes infilling or laying drainage pipes in open ditches or sheughs. A derogation to remove a landscape feature can be sought by contacting a DAERA Direct office or by emailing landscapefeaturederogations@daera-ni.gov.uk.

If a landscape feature is removed without a derogation the farmer may be in breach of Cross-Compliance GAEC 7 Retention of Landscape Features. When a derogation has been given to remove a landscape feature it will usually be associated with some mitigating action. This must be completed within the deadline set by DAERA. Further information can be found in the 2020 Cross-Compliance Verifiable Standards guide at

<https://www.daera-ni.gov.uk/publications/cross-compliance-2020>

Section 4 Ineligible land

There are a range of examples where land should be classified as ineligible. This section lists the most common ones but in all cases you should apply the criteria;

- Is the vegetation eligible?
- Is the land maintained in a state suitable for grazing or cultivation?
- Is agricultural activity carried out over the entire area on a significant and consistent basis over the calendar year?

Land that is permanently out of agricultural use

Typical examples include:

- Buildings, building sites and yards
- Gardens and parks
- Roads
- All laneways
- Hard standing
- Slurry storage sites
- Quarries
- Ponds, lakes and any designated streams, rivers and watercourses maintained by the Rivers Agency
- Scree and rocky outcrops
- Concreted areas

See Section 8 and Annex C in relation to land used for non-agricultural activities.

If any part of your holding has been permanently removed from agricultural use, you need to tell us and get your map updated.

You should remember that certain ineligible features may not be recorded on your map; e.g. bare soil, deeply rutted tracks. Furthermore, particularly in relation to vegetation, it is not possible to determine the eligibility of some other ineligible features from an ortho picture e.g. rush density or heather height.

It is your responsibility to ensure that you only claim on eligible land and deduct all ineligible areas irrespective of what is indicated on your map.

Ineligible Vegetation

Ineligible vegetation includes scrub, impenetrable rush, bracken or a mixture of these.

If the area is a mixture of any of the other types of vegetation, e.g. scrub and impenetrable rush, scrub and bracken, then the whole area can be assessed as one feature and an assessment of the total density made.

The advice in following pages will help you work out what deductions you need to make for ineligible vegetation in your fields.

Please note management of habitats such as scrub, bogland and heather must be compatible for Cross-compliance regulations as at page 7.

Note that since 2019, SMR2 on the conservation of wild birds means claimants must not carry out any activities on land which are likely to result in the disturbance of birds or the deterioration of habitats affecting birds.

See also section “Land becoming ineligible as a result of EU Directive implementation” on page 36.

Scrub

Scrub may contain hawthorn, blackthorn, gorse (whin), bramble, honeysuckle, dog rose, bushy willows (sally), or stunted hazel, with few or no mature trees present.

Scrub may be dense or scattered.

Scrub tends to grow in confined areas within a field. It may be so dense that animals cannot penetrate it or there may be scattered scrub throughout the field.

You will have to calculate how much ineligible land (that is, scrub) is present. You need to assess how dense the scrub is and how much area it takes up. The guidance outlined below will assist you in the calculation.

You must ensure that the area of the ineligible land you deduct from your claim is at least equal to the area of scrub present.

To assess the amount of scrub in your field, you need to consider if there are:

- Areas of dense scrub;
- Scattered scrub which is confined to particular areas within a field;
- Scattered scrub which is spread throughout a field.

You should first of all calculate the deduction required for dense scrub before going on to consider scattered scrub.

Dense Scrub

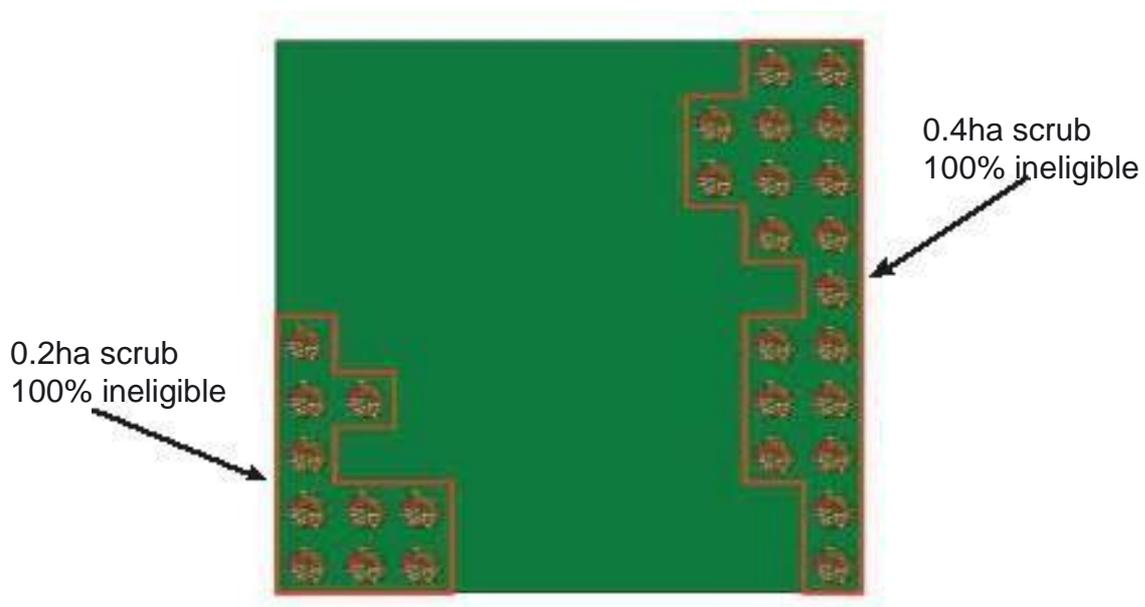
Dense scrub is defined as areas within a field that contain scrub vegetation that is so dense that no grazing is possible within that area.

All areas covered by dense scrub must be deducted from your claim. If the total ineligible area of the field does not exceed 0.01ha then no deduction is required. It is important that you check your most recent Scheme map and assess your land accordingly as smaller areas of scrub less than 0.01ha may not have been captured in the MEA and need to be deducted from your claim.

Example 1

Your field is 2ha but there are dense patches of scrub. In this example, the dense scrub totals 0.60ha.

This means that only 1.4ha of the field is eligible.



In this example, you would need to amend the MEA for the field to 1.4ha.

For information on how to amend the MEA see

<https://www.daera-ni.gov.uk/publications/how-complete-your-single-application-online-2020>.

Ineligible Vegetation - Bracken

Land covered in bracken is not eligible. You must deduct the area of the bracken from the area you are claiming even where bracken is present in only part of a field for 2 - 3 months of the year, as the field must be in an eligible land use for the entire calendar year.



Bracken is not eligible.

Ineligible Vegetation – Rush

Rush is an herbaceous, low-nutrient value forage plant which meets the definition of permanent pasture. Rush which is well managed (e.g. cut on a regular basis) will not generally make the field or area where rush is present ineligible.



Tall brown impenetrable rush is not eligible.

Rush is ineligible if it is present in areas which are:

- inaccessible to grazing livestock, or
- abandoned, that is, not in agricultural use, or
- cannot support grazing livestock, for example, if it is too wet (swamp in nature).

In addition:

- Areas of agricultural fields covered by rush which are impenetrable (tall, brown, difficult to walk through) are ineligible.
- Areas of agricultural fields covered by rush with limited grazing may also be considered ineligible.
- Areas in fields which have no agricultural value due to the presence of rush combined with briars, nettles, etc. are ineligible.
- Isolated clumps of mature brown rush within a field are ineligible.

Scattered Ineligible Vegetation (Scrub, bracken and overgrown rush)

Scattered areas of scrub, bracken and overgrown rush can occur as numerous small bushes or clumps of vegetation with grazing possible between the clumps. In such cases, it would not be practical to calculate the area taken up by each individual clump. Therefore we have developed a scorecard on the next page to help you calculate the ineligible area which must be deducted from you claim.

The scorecard is **not to be used for dense areas of scrub, bracken or overgrown rush** - you must deduct these areas first in their entirety. In other words, only use the scorecard if it is not practical to deduct the area occupied by each portion of ineligible vegetation. **The scorecard must be applied only to the area where scattered vegetation is present. It must not be applied to the entire field unless the scattered scrub, bracken and overgrown rush are uniformly present throughout the entire field. Using the scorecard incorrectly when applying at field level, when there is dense ineligible vegetation and scattered ineligible vegetation is only present in a portion of the field, could mean that the area you calculate as ineligible may be too low and penalties may be applied to your claim.**

From an aerial photograph, the scattered vegetation might look like this.



Scattered Ineligible Vegetation scorecard

Where there are patches of scrub, bracken and/or overgrown rush of more than 0.01ha (defined as dense vegetation) you need to deduct these from the eligible area of the field and only claim the eligible area. Ineligible areas which are smaller than 0.01ha but which add up to more than 0.01ha within a field must also be deducted.

If there are very low levels of scrub, bracken or overgrown rush for example, several isolated clumps with grazing accessible on all sides and which cause no impact on the amount of grazing available, no deduction in area claimed is required.

	% Density/Cover of feature	Examples	% reduction in area required
1	5% or less	Small isolated clumps of ineligible vegetation which have a very minor impact on the area available for grazing. You are required to make a 2.5% deduction of the total area.	2.5%
2	More than 5% but not more than 20%	Significant number of scattered clumps of ineligible vegetation but with some grazing beneath and between the clumps. You are required to make a 13% deduction to the area containing the scattered vegetation	13%
3	More than 20% but not more than 50%	Numerous clumps of ineligible vegetation with restricted grazing but there is an accessible area between clumps. You are required to make a 36% deduction to the area containing the scattered vegetation.	36%
4	More than 50%	Clumps of ineligible vegetation occupy more area than that available for grazing. Access likely to be limited to defined paths. The whole area containing the vegetation is ineligible	100%

Further illustrated examples of percentage ground cover are at Annex B.

ALL REFERENCES TO SCRUB IN EXAMPLES 2, 3 AND 4 ALSO REFER TO INELIGIBLE BRACKEN AND OVERGROWN RUSH

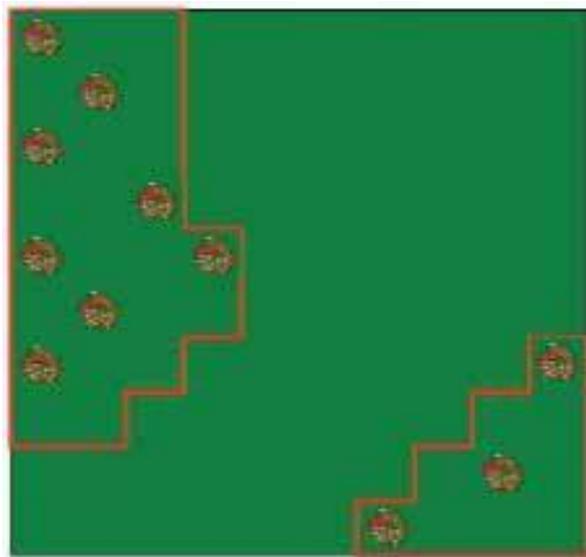
Example 2

Scattered ineligible vegetation contained in two areas of the field

Your field is 2ha but there are two patches of scattered scrub. A deduction has been made to the MEA of the field but you must check this.

You should apply the scorecard to the two areas to help you assess how much area you need to deduct.

Patch scrub - 0.5ha. Scrub cover assessed at 30% therefore 36% ineligible = 0.18ha



Patch scrub 0.2ha. Scrub cover assessed at 20% therefore 13% ineligible = 0.03ha

In this case, using scorecard 3, you have worked out that the area of scrub of 0.5ha is more than 20% and less than 50% dense, so you make a deduction of 36%.

Using scorecard 2, you have worked out that the other area of 0.2ha of scrub is between 6% and 20% dense and you need to make a deduction of 13%.

	Ha	% Ineligible	Total area to be deducted
Field Size	2.0		
Scattered scrub	0.5	36	0.18
Scattered scrub	0.2	13	0.03
Total deducted			0.21

The MEA for this field would be 2.0ha - 0.21ha = 1.79ha.

In this example, you would need to amend the MEA for the field to 1.79ha.

For information on how to amend the MEA see

<https://www.daera-ni.gov.uk/publications/how-complete-your-single-application-online-2020>.

Example 3

Scattered ineligible vegetation uniformly spread throughout a field.

Your field is 2ha but there are several small clumps/bushes uniformly spread throughout the field. A deduction has been made to the MEA of the field but you must check this.



Scrub cover
assessed at 20% of
field.

Size therefore
13% ineligible =
0.26ha.



Using scorecard 2 above, you have worked out the areas of scattered scrub account for around 20% of the field size and so you need to make a deduction of 13%.

	Ha	% Ineligible	Total area to be deducted
Field Size	2.0		
Scattered scrub	2.0	13	0.26
Total deducted			0.26

The eligible area for this field would be $2.0\text{ha} - 0.26\text{ha} = 1.74\text{ha}$.

In this example, you would need to amend the MEA for the field to 1.74ha.

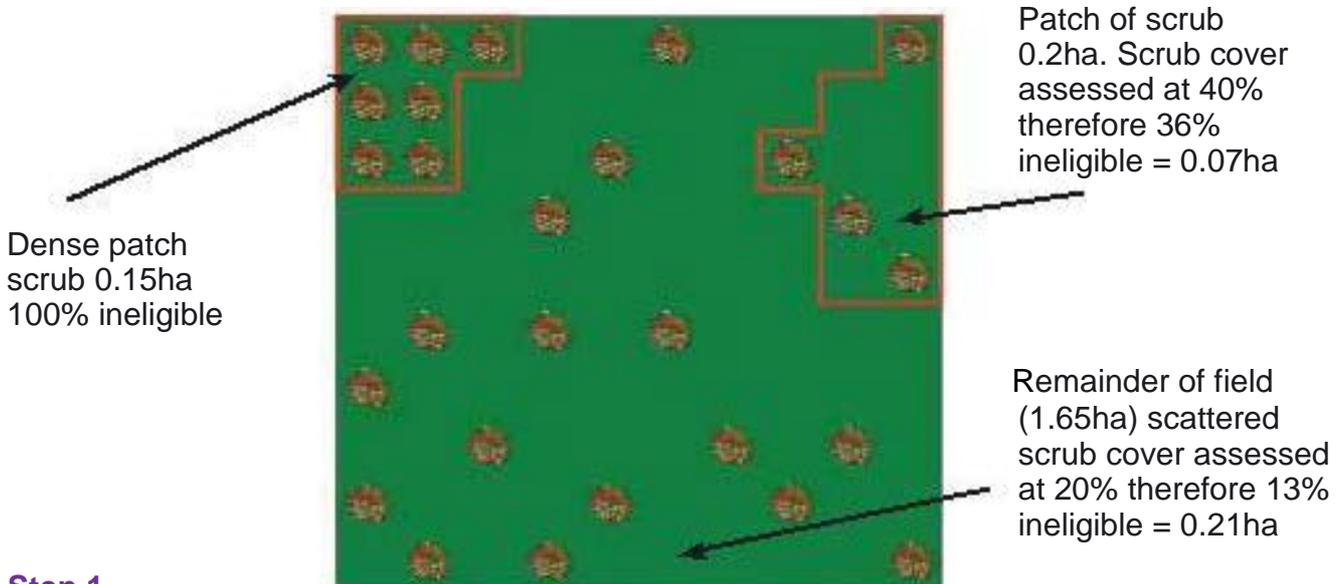
For information on how to amend the MEA see

<https://www.daera-ni.gov.uk/publications/how-complete-your-single-application-online-2020>

Example 4

Complex situation which includes areas of dense and scattered ineligible vegetation

Your field is 2ha but there is dense and scattered scrub in the field. A deduction has been made to the MEA of the field but you must check this.



Step 1

Calculate area of dense scrub (top left corner) = 0.15ha and is all ineligible.

Step 2

Apply the scorecard to the area of scattered scrub which has the highest density (top right corner). This is an area of 0.2ha and using scorecard 3 you assess a scrub density of 40%. Therefore, you need to make a deduction of 36%, which is 0.07ha (0.2ha x 36%).

Step 3

Apply the scorecard to the remainder of the field which contains scattered scrub. This is an area of 1.65ha and you assess using scorecard 2 a scrub density of 20%. Therefore, you need to make a deduction of 13%, which is 0.21ha (1.65 ha x 13%).

The changes from Steps 1-3 are summarised below:

	Ha	% Ineligible	Total area to be deducted
Field Size	2.0		
Step 1 Dense scrub	0.15	100	0.15
Step 2 Scattered scrub	0.20	36	0.07
Step 3 Scattered scrub	1.65	13	0.21
Total deducted			0.43

The eligible area of this field would be 2.0ha - 0.43ha = 1.57ha.

In this example, you would need to amend the MEA for the field to 1.57ha.

For information on how to amend the MEA see

<https://www.daera-ni.gov.uk/publications/how-complete-your-single-application-online-2020>.

Removal of scrub

All claimants should be aware of 3 regulations which may impact on the planned management of scrub.

1. GAEC 7: Retention of Landscape Features

Under GAEC 7: Retention of Landscape Features, scrub must not be removed between 1 March and 31 August - the bird nesting season.

2. GAEC 6 and Environmental Impact Assessment (Agriculture) Regulations (NI) 2007 (as amended)

Under the Environmental Impact Assessment (EIA) (Agriculture) Regulations (Northern Ireland) 2007, DAERA's consent is required if you wish to remove scrub larger than 2ha to intensify agricultural activity on previously uncultivated land or a semi-natural area.

Failure to obtain consent prior to starting work may lead to prosecution. A breach of Cross-Compliance under GAEC 6 'Maintenance of soil organic matter level through appropriate practices.....' may also apply which could affect payment from the Department's Area Based Schemes.

For further information on the EIA (Agriculture) Regulations 2007 or to apply for consent go on line at <https://www.daera-ni.gov.uk/articles/environmental-impact-assessment-eia> or contact:

Countryside Management Unit
Academy House
121A Broughshane Street
Town Parks
Ballymena
BT43 6HY

Tel: 0300 200 7842

Email: eia@daera-ni.gov.uk

3. SMR2 Conservation of Wild Birds

Claimants must not carry out any activities which are likely to result in the disturbance of birds or the deterioration of habitats affecting birds. Such activity may be a breach under SMR 2. Conservation of Wild Birds.

Under Cross-Compliance SMR2 '*Conservation of Wild Birds*' and SMR3 '*Conservation of Natural Habitats and of Wild Flora and Fauna*' apply to land designated by the NIEA as a Natura 2000 site, SPA, SAC, or ASSI. Removal of scrub on designated sites is only permitted with written consent from the NIEA.

It is important to note that, from 2019, SMR2 was extended to include **all lands** which means that the requirements for conservation of wild birds also apply outside the SPAs.

Further information on the conservation of wild birds can be obtained from NIEA on (028) 9056 9546 or on the DAERA website:

<https://www.daera-ni.gov.uk/articles/special-protection-areas>

Also note

Bare ground (after scrub removal) will remain ineligible until grass cover has been established. You should note that for land to be claimed for BPS and YFP, it must be in eligible use for the entire calendar year.

Even where scrub has been removed, DAERA may consider whether your land was eligible in previous years, back to 2016 by using aerial photography.

Cross-Compliance breaches identified during an OTSC will be attributed to the current claimant unless acceptable evidence is available to the contrary.

Woodland/Trees

As a general rule woodland is ineligible for BPS but may be eligible for Agri-environment schemes.

The following are not eligible for BPS

- Christmas trees.
- Woodland which is not grazed.
- Woodland with more than 50 trees per hectare.
- Woodland planted under the terms of the Woodland Grant Scheme and Farm Woodland Premium Scheme or the Agri-environment Scheme option (provision of native trees/ ungrazed grass margins planted with trees) will not constitute **grazed woodland** as the tree density is more than 50 trees per hectare. **But see exceptions below where land in these schemes may be eligible.**



Ungrazed woodland is not eligible.

Exceptions

Woodland can be considered eligible in the following cases:

- Land that was eligible and on which SFP was paid in respect of 2008 scheme year and is subsequently (after 31 December 2008) converted to forestry under an EU scheme **remains eligible for the duration of the forestry scheme.**
- Land that was eligible and on which SFP was paid in respect of 2008 scheme year and is subsequently (after 31 December 2008), planted with trees under an Agri-environment scheme, **remains eligible for the duration of that scheme.**
- Land in a Forestry Scheme or an Agri-environment scheme on which SFP was paid in 2008 in respect of set-aside entitlements **remains eligible for the duration of the relevant scheme.**

The land referred to in the 3 points above will become ineligible once the relevant scheme ends.

Agro-forestry

Agro-forestry occurs where agriculture and tree cultivation are carried out on the same land unit. Where land is managed for agro-forestry the tree density is usually in excess of 50 trees/ha but the planting has taken place in such a way that the area of the field is utilized for agricultural activity in the initial years of tree establishment, these areas are eligible in the initial years of tree establishment, provided agricultural activity remains predominant and is not significantly affected by the presence of trees.

Grazed woodland

Grazed woodland is only eligible if the tree density does not exceed 50 trees per hectare and agricultural activities can be carried out on the grazed woodland in a similar way compared to land without trees.

If trees are present throughout the field, the tree density is applied at field level. In these cases if the tree density is greater than 50 trees per hectare the entire field will be ineligible.

If trees are present in part of the field, the tree density is applied to the part of the field containing trees. If the tree density is greater than 50 trees per hectare for the part of the field containing trees and this is not a single tree, line of trees or small clump of trees (see below), then that part of the field will be ineligible. The remainder of the field may be eligible providing it complies with all the eligibility rules.

If there is no grazing available under the trees or woodland is not currently being grazed/used for agricultural activity or the tree density exceeds 50 trees per hectare, **then it is ineligible even if it had previously been used to support claims in the past.**

Single tree, line of trees or small clumps of trees

If there is a single tree, a line of trees or small clump of trees with grazing available underneath right up to the trunk, you only need to make a deduction if there is an area of bare ground or mulch under the trees and consequently no grazing is available on these areas.

Scattered stones, scree and rock

Any areas of rock, within your field are ineligible. This scorecard will help you calculate the ineligible area under scattered stones, scree or rock. The scorecard is shown below. You will note that the percentage reductions being applied for scattered rock are different from those being applied for scattered scrub. This is to reflect that scrub tends to grow in clumps with no eligible land within the clump whereas rock tends to be scattered with grass growing between the stones. Therefore, even at higher densities of rock some eligible land is still available

compared to scrub.

% Density of scattered stones, scree or rock	% Reduction applied
10 % or less	5%
More than 10% but not more than 30%	20%
More than 30% but not more than 50%	40%
More than 50% but not more than 70%	60%
More than 70%	100%

Lanes and transport routes

Constructed animal walkways are not eligible. Concrete or tarmac lanes or lanes with a hardcore base, even if greened over are **completely ineligible**. Areas of fields predominantly used as transport routes are also ineligible. These are often characterised by the presence of bare soil or deep tractor ruts on a **permanent basis**. The area deducted must be measured from the outside of one tractor rut to the outside of the other. **The area between each rut, even if grazed, is not eligible.**

If lanes or transport routes are present at field boundaries you must deduct the area of the lane/transport route and the area between the lane/transport route and the field boundary line. This will include areas occupied by hedges or sheughs if present on the field boundary.

This hardcore lane has grassed over. It is not eligible.



This hardcore lane is not eligible. In this case make a deduction for the area between the ruts as well as the ruts themselves.



Section 5 Marginal land

Bogland and Areas Covered with Heather

It is often very difficult for DAERA to determine from aerial photography whether bogland and areas covered with heather are eligible. Consequently these areas may not be removed from the MEA shown on your map. **This does not necessarily mean that these areas are eligible for EU direct payments.**

As with any field, it is your responsibility to ensure that you only claim on eligible land and deduct all ineligible areas irrespective of what is indicated on your map.

In recent years a 100% penalty has been applied to a significant number of claims due to the inclusion of bogland and areas covered with heather which, following an OTSC, have turned out to be ineligible.

Placing small numbers of animals on large areas of bogland or heather is unlikely to make these areas eligible. In relation to land which is in an Agri-environment agreement and subject to a low maximum stocking density and other grazing restrictions, you are advised to maintain a stocking density close to the maximum allowed level during most of the permitted grazing period and ensure that the entire area is grazed in order for it to be eligible. Areas on which there is no grazing activity may still be eligible if other agricultural activity such as mowing or flailing of the vegetation is being carried out. Similarly, the presence of animals on these areas for a short period is unlikely to make them eligible. Land being claimed must be eligible for the entire calendar year, so action undertaken after an inspection has found the land to be ineligible can only make the land eligible for the next calendar year.

Areas, which due to ground conditions are unsafe for humans to walk on, are normally ineligible.

Heather

The European Commission has advised that heather can be considered eligible on a case-by-case basis, providing it is capable of sustaining agricultural activity, for example, grazing livestock, and is maintained in GAEC.

On this basis, heather is considered eligible if it is:

- accessible to grazing livestock;
- less than 50cm tall; and
- used for agricultural purposes, that is, grazed by livestock and/or part of a heather management plan such as flailing or controlled burning.

Heather may still be eligible for Agri-environment schemes if it is actively managed according to your Agri-environment scheme requirements.

Ineligible heather



Heather is ineligible if it is:

- inaccessible for grazing animals; or
- over mature, that is more than 50cm tall

If evidence of grazing is only present on part of the heather area and there is no evidence of agricultural activity elsewhere on the heather area, then the remainder of the heather area (within the field) will be deemed ineligible.

Heather below 50cm grazed by livestock is eligible.



This is land which is not in agricultural use.

Ineligible heather above 50cm

Mosaic of ineligible and eligible heather

Even in well managed areas of heather which are grazed, coverage of mature heather of around 10% could be expected. Therefore, a maximum 20% of mature heather (more than 50cm tall) is allowable in an area of a field where heather is the predominant species (see example 1). **If the amount of mature heather exceeds 20%, then the total area of mature heather becomes ineligible** (see example 2). The presence of some mature heather has biodiversity benefits in providing nesting sites and cover for ground nesting birds.

You will need to assess and decide on the areas of heather that are eligible and ineligible.

Guidance on burning and flailing of heather

Controlled burning and flailing is encouraged as a management tool for regeneration of mature heather and, along with grazing, can assist in making the field eligible. Burning of heather or hill pasture is controlled by law and must not be carried out between 15 April and 31 August to protect ground nesting birds. This requirement is also contained within Cross-Compliance GAEC 5 '*Minimum land management reflecting site specific conditions to limit erosion*'.

It is recommended that burning or flailing of heather takes place on approximately a 20 year rotation - that is 5% a year. We recognise that burning, in particular, might not be possible each year due to weather constraints. **Therefore a 20% maximum burn/flail per year for a heath on a field is acceptable, with the burned/flailed area remaining eligible (see example 3). Heath is defined as mixed vegetation with heather being the dominant species in the field.**

If more than 20% of the heath on a field is burned and/or flailed in one management season, then the entire area of burned and/or flailed heath is ineligible (see example 4).

Controlled burning and flailing each year must be part of a management plan which will see all of the heath burned/flailed and/or grazed over a period not exceeding 20 years for the entire area to be eligible (provided the vegetation present each year meets the eligibility requirements). If repeat burning/flailing and grazing is confined to the same area of the heath, then the remaining area is ineligible.

Consent is required from the NIEA before burning/flailing heather on designated sites, for example, Natura 2000 sites, (SPA, SAC) and/or Areas of Special Scientific Interest (ASSI)

Burning is discouraged on blanket bog and within ASSIs burning should only be undertaken with NIEA consent. Blanket bog occurs on deep peat deposits over 0.5m deep. The average depth is 2 - 3m and it is normally found on areas over 200m above sea level.

Areas which have been burned or flailed on heaths consisting entirely of mature heather or where there is no significant agricultural activity are ineligible. In these cases the entire area of the heath is ineligible (see example 6).

Calculating the eligible area of heather mosaics

Example 1

You have an area of heath of 1ha.

0.9ha of the heath is below 50cm so that area is eligible. The remaining area of 0.1ha is mature heather. As the area of mature heather does not exceed 20% of the heath, you can claim this area as eligible.

Total eligible area of the heath is 1ha.

Example 2

You have an area of heath of 1ha, with 0.75ha under 50cm so that area is eligible. The remaining 0.25ha of mature heather is ineligible as it exceeds 20% of the area of the heath.

Total eligible area of the heath is 0.75ha.

Example 3

You have an area of heath of 1ha with 0.85ha under 50cm so that area is eligible. The remaining area of the heath of 0.15ha has been burned or flailed. As this is less than 20% of the heath, you can claim the whole heath as eligible.

Total eligible area of the heath is 1ha.

Example 4

You have an area of heath of 1ha with 0.75ha under 50cm so that area is eligible. The remaining area of the heath of 0.25ha has been burned or flailed. As this exceeds 20% of the heath, this area is ineligible.

Total eligible area of the heath is 0.75ha.

Example 5

You have an area of heath of 1ha with 0.70ha under 50cm so that area is eligible.

You have burned or flailed 0.15ha and the remaining area of the heath of 0.15ha is mature heather. As the area which is burned or flailed is less than 20% of the heath, and the area of mature heather is also less than 20% of the heath, you can claim the whole heath as eligible.

Total eligible area of the heath is 1ha.

Example 6

You have an area of heath of 1ha.

You have burned or flailed 0.20ha and the remaining area of the heath of 0.80ha is mature heather. As the remainder of the heath consists entirely of mature heather the entire area of the heath is ineligible.

Bogs, swamps, reed-beds and fens

Bogs, swamps, reed-beds and fens are only eligible where they are enclosed by a physically recognisable boundary, where they are accessible, where there is forage available and there is agricultural activity taking place.

If this is not the case the area is ineligible.

These areas may still be eligible for Agri-environment schemes if they are actively managed according to your Agri-environment scheme requirements and are included in the MEA area of the field.



***A reed-bed
which is
ineligible.***

Unclear bog

Where 'unclear bog' is printed in the Field Status column of the Field Information Table which accompanies your map this means that based on our current information, we believe the field is bog and that it does not have a physically recognisable boundary. The MEA for the field is therefore fixed to zero because we consider the field to be ineligible for BPS and therefore should not be claimed. If you are confident that any of the area has eligible vegetation and the field is enclosed by a recognised field boundary, you should notify us using the online 'Submit FNC changes to DAERA' function.

Blanket Bog in an Environmental Farming Scheme

Blanket Bog in the EFS is normally restricted to a maximum stocking density of 0.075LU/ha and may only be grazed during the period 1 March - 31 October, unless specific grazing restrictions for the site are prescribed in the EFS site-specific Remedial Management Plan (ssRMP) for the site.

If you maintain a stocking density close to 0.075LU/ha during most of the permitted grazing period and the entire area is grazed, then it will be eligible for BPS apart from areas covered

with ineligible vegetation (e.g. scrub) or other ineligible features. Areas on which there is no grazing activity may still be eligible if other agricultural activity such as mowing or flailing of the vegetation is being carried out.

You should be aware that mowing or flailing may not be appropriate management of some sites and in some cases might not be permitted

Land becoming ineligible as a result of EU Directive implementation

Land that no longer meets the usual eligibility requirements for the BPS because of the implementation of EU legislation on the conservation of wild birds (the Wild Birds Directive), natural habitats and of wild fauna and flora (the Habitats Directive), or, the Water Framework Directive may be used for the BPS provided it met the SFP eligibility requirements and formed part of the area determined as eligible for payment in 2008. If claiming such areas as eligible for BPS, you should have written evidence from, for example NIEA , Loughs Agency or Rivers Agency confirming that the current ineligible condition is a direct result of the implementation of national or EU legislation, e.g. Habitats, Birds or Water Framework Directives.

Where these designations occur on land under a live EFS agreement, eligibility is further defined under Section 7 of this guide.

Much of this land will be within a Special Protection Area (SPA, SAC or ASSI). You will have been formally notified by the NIEA if your land is in one of these areas and you will already be aware of the environmental obligations which exist on your land

Protected areas can be viewed on the NIEA Natural Environment Map Viewer at the following address

<https://apps.daira-ni.gov.uk/nedmapviewer/>

Section 6 Temporary ineligible features

Activities associated with normal agricultural practice

The following activities are associated with normal agricultural practice and some activities may result in land being ineligible. Ground which is temporarily bare associated with these activities will remain eligible as set out below.

- a. Cleaning sheughs and maintained watercourses: areas covered by spoil, soil or clay which is lightly spread adjacent to a sheugh or watercourse are eligible. Piles of spoil, soil or clay present are ineligible.
- b. Hedge cutting: land covered with debris from hedge cutting is eligible, if disposed of within 6 months of the cutting date. Piles of bushes present on a permanent basis are ineligible.
- c. Field drainage.
- d. Farmyard manure and poultry litter stored for spreading in that field (subject to the conditions of the Nutrient Action Programme 2019-2022) are eligible. Concrete areas or areas used as general storage for farmyard manure are permanently ineligible.
- e. Ploughing and reseeding/cropping.
- f. Poached ground around gateways and feeding areas provided it is due solely to the presence of animals and which will naturally regenerate with grass. These are normally small areas measuring 0.01ha or 0.02ha. Note: Areas where the bare soil is caused by the presence of trees are not eligible.
- g. Deeply rutted tracks or tracks that are part of a transport network are not eligible. However, temporary ruts do not affect eligibility.

Temporary ruts such as these are eligible.



Land temporarily out of agricultural use

Land may be temporarily out of agricultural use because:

- It is being used to store silage bales, machinery or stones, but see further information below.
- There is bare ground or mulch under trees with no grazing available.
- There are deeply rutted tracks in fields.

This land is not eligible for BPS and other schemes.

Storage of silage bales, machinery or stones

Where an area of a field is used to store bales, machinery or stones which are associated with that field only and stored on a temporary basis for example, you have an area of 0.05ha where bales are stored in the corner of the field (from which they have been harvested) then no deductions in the area of the field are needed. The total area of the field can be considered eligible for BPS.

However, if part of a field is used for storage on a regular basis, for example bales or machinery year after year or stone that is not used, or if it is clear that the number of bales stored in the field exceeds that produced from the field, then this would **not be considered a temporary basis** and a deduction must be made for all schemes for the area used for storage.

Similarly, if **a permanent** section of a field has been fenced off for the main purpose of storage, then this would **not be considered a temporary basis**. This area must be clearly identified on the farm map and is ineligible for all schemes.

Section 7 EFS and compatibility for claiming BPS

Not all land eligible under EFS is eligible for BPS. The following tables explains which classification codes are compatible

Environmental Farming Scheme (EFS) - Higher

Option	Compatibility for claiming BPS & YFP
Moorlands (upland heath)	1
Moorlands (lowland heath)	1
Moorlands (montane heath)	1
Moorlands (blanket bog)	1
Moorlands (intact lowland raised bog)	1
Calcareous grassland	1
Limestone pavement	1
Lowland dry acid grassland	1
Lowland meadow	1
Purple moorgrass and rush pasture	1
Parkland	2
Grazed woodland (mixed ash, oak and wet)	2
Ungrazed woodland (mixed ash, oak and wet)	3
Coastal salt marsh	2
Coastal sand dunes	2
Maritime cliff and slope	2
Coastal and flood plain grazing marsh	2
Fen	2
Reedbed	2
Breeding wader site	1
Lapwing fallow plots	1

Environmental Farming Scheme (EFS) - Wider

Option	Compatibility for claiming BPS & YFP
Riparian buffer (ungrazed /planted)	4
Natural regeneration of native woodland	5
Establishment of agroforestry	6
Planting native tree corridors	5
Establishment of native woodland	5

Compatibility Key

1. Eligible for claiming BPS providing it forms part of a land parcel of 0.1ha or more and meets all other eligibility criteria described in this booklet. Area reductions should be made for any ineligible features, such as land in non-agricultural use, dense patches of scrub, scattered scrub, wide boundaries etc.
2. Eligible for claiming BPS providing it is accessible for livestock, there is forage available and it is grazed. It should meet all other eligibility criteria described in this booklet. Area reductions should be made for any ineligible features, such as land in non-agricultural use, dense patches of scrub, scattered scrub, wide boundaries etc.
3. Ineligible for BPS.
4. The 2.0m strip adjacent to the watercourse in EFS riparian buffer options (both 2.0m and 10.0m ungrazed and planted with native tree options) is eligible for BPS payment irrespective of the presence of vegetative ineligible features, provided SFP was claimed and paid on this area in the 2008 scheme year. In the remaining 8.0m area in 10.0m riparian buffers (both ungrazed and planted with native tree options) reductions should be made for any ineligible features, such as land in non-agricultural use, dense patches of scrub, scattered scrub, wide boundaries etc.
5. Eligible for claiming BPS provided at EFS application stage it forms part of a land parcel of 0.1ha or more and meets all other eligibility criteria described in this booklet and provided this area was claimed and for which SFP was paid in the 2008 scheme year. Area reductions are only required in the EFS application year for any ineligible features, such as dense patches of scrub, scattered scrub, wide boundaries etc. These options will remain eligible for BPS for the duration of the EFS agreement.
6. Eligible for claiming BPS providing it forms part of a land parcel of 0.1ha or more and meets all other eligibility criteria described in this booklet. Area reductions should be made for any ineligible features, such as, dense patches of scrub, scattered scrub, wide boundaries etc. These areas are eligible for BPS in the initial years of tree

establishment, provided agricultural activity remains predominant and is not significantly affected by the presence of trees

Notes:

1. Western Gorse (*Ulex gallii*) is a smaller, more compact shrub, with smaller spines when compared to European or common gorse / whin (*Ulex europaeus*). In contrast to whin, which mainly flowers in the spring, western gorse flowers from late summer to autumn. The shrub is mainly found in the Mourne, Slieve Croob and Slieve Gullion areas on dry and wet heath.
2. Some areas classified as heather moorland contain patches of Western Gorse. Western Gorse is eligible for EFS payments as long as the area is actively managed in accordance with your EFS management requirements but you should treat it as scrub for BPS eligibility and make appropriate reductions to your claim. Western gorse may be important in designated sites. You should not remove it without prior consultation and approval from NIEA.

Section 8 Non-agricultural activities on eligible land

To be eligible for BPS, land has to be used primarily for an agricultural activity. If agricultural and non-agricultural activities are taking place on the same land, the land won't be eligible if the intensity, nature, duration and timing of the non-agricultural activity significantly interferes with agricultural activity.

Further information on the impact of non-agricultural activities on land eligibility is at Annex C.

Section 9 Common land

The eligibility requirements for common land are the same as for any non-common land field on which you claim. It is your responsibility to make sure that all eligibility rules are met.

Section 10 Other issues

Split fields

If more than one producer attempts to activate BPS entitlements on different parts of the same field the claims will not be accepted, and may lead to penalties being applied. If more than one producer is farming the same field, the field will need to be physically split.

For example, field 1 is 3.50ha and has crop code FR1. 2.50ha are claimed by Producer A and 1.00ha by Producer B. The producers need to establish an acceptable boundary feature and report the change. Field 1 will become 1A = 2.50ha and 1B = 1.00ha.

Unverified fields

Fields are classed as unverified for two main reasons:

- (i) To highlight to the farm business that they should pay particular attention to the boundary as it cannot be seen clearly on the aerial photograph; and
- (ii) To inform DAERA staff that there is an uncertainty about this boundary which we aim to verify in the future.

The unverified status has no bearing on payments and so if you are content that the boundary is correct, you need take no further action and should claim for this field as normal. Processing of your claim will not be held up due to the field's unverified status. There is no limit to the number of consecutive years that a claim can be made on an unverified field.

Unverified Common Boundary

If an unverified Common Boundary is identified at an OTSC, the shareholders will be notified that a recognised boundary must be erected. Payment for the Common Land will not be made until the boundary has been verified. See Section 3 Field Boundaries and Landscape Features for further information on DAERA boundaries.

Turf production

Grass turf is eligible.

Turf (peat) produced for fuel is not eligible.

Land under polytunnels

Any crops grown under polytunnels are eligible for BPS, provided that the ground underneath them is kept in GAEC and is not hardcore or has not been concreted. If the ground is hardcore or concreted, a deduction would have to be made for the area under the polytunnel.

Land used for free range poultry

Any land used for free range poultry production under land use code FR1 is eligible for BPS if it is classified as agricultural land, for example, hen runs. As with all agricultural land, it should be maintained in GAEC.

Where the bird houses are a permanent fixture on a concrete area in a field, a deduction would have to be made for the concrete area.

Temporary areas of bare soil which are caused solely by the presence of poultry, and which will naturally regenerate with grass within a short period, are eligible.

Land grazed by horses

The grazing of horses is considered to be an agricultural activity for the purposes of the BPS. Land which is used mainly for grazing horses but which you occasionally use for non-agricultural purposes for example, an annual gymkhana is eligible.

However, areas of land used by horses for other activities, such as a ménage, and land used for non-agricultural purposes, such as racecourses, gallops or as a show jumping arena are not eligible. This includes the land in the centre of the racecourse.

Coastal cliff faces

Coastal cliff faces where the slope is of a gradient which makes them dangerous for humans to walk on are ineligible for BPS irrespective of whether animals roam these areas. Other coastal areas which may be safely walked on by humans may be eligible provided they meet all the eligibility requirements outlined in this booklet.

Annex A

Eligible land uses for BPS

Eligible land use for the purpose of activating entitlements under the BPS includes the following:

Land Use Code	Land Type
	Forage
FR1	Grass (grass for grazing, hay and silage, rough grazing, grazed heather, sainfoin, clover, lucerne and forage vetches). This includes the EFS Option "Creation of Arable Margins - 6m width - rough grass"
	Cereals and Oilseeds
CO1	Spring Barley Includes Feed barley, Malting barley, Two row barley, Six row barley
CO2	Winter Barley Includes Feed barley, Malting barley, Two row barley, Six row barley
CO3	Spring Wheat Biscuit wheat, Common or Bread wheat, Durum wheat, Einkorn, Feed wheat, Red wheat, Spelt
CO4	Winter Wheat Biscuit wheat, Common or Bread wheat, Durum wheat, Einkorn, Feed wheat, Red wheat, Spelt
CO5	Spring Oats Oats, Quaking oats, Porridge oats, Feed oats, Naked oats
CO6	Winter Oats Oats, Quaking oats, Porridge oats, Feed oats, Naked oats
CO7	Maize including Forage Maize Maize, Corn, Sweetcorn
CO8	Rapeseed Industrial rape (no separate spring and winter varieties), Spring Oilseed rape, Swede (no separate spring and winter varieties)
CO9	Winter Oilseed rape Winter Oilseed rape
CO10	Spring Triticale
CO11	Winter Triticale

Land Use Code	Land Type
CO12	Linseed Spring Linseed, Flax (no separate spring and winter varieties)
CO13	Winter Linseed Winter Linseed
CO14	Spring Rye Rye
CO15	Winter Rye Rye
CO16	Wild Bird Cover. This includes the EFS Option "Provision of winter feed crop for wild birds".
CO17	Beet Includes Beetroot, Chard, Field Beet, Fodder Beet, Mangolds, Redbeet, Sugar Beet
	Horticulture - Vegetables
HV1	Potato Early potato, Maincrop potato, Seed potato
HV2	Turnip Bok choi (no separate spring and winter varieties), Chinese cabbage (Pak choi) (no separate spring and winter varieties), Turnip (no separate spring and winter varieties), Spring Turnip rape
HV3	Winter Turnip rape Winter Turnip rape
HV4	Cabbage Broccoli, Brussels sprouts, Cabbages, Calabrese, Cauliflower, Chinese kale, Kale, Kohlrabi, Red cabbage, Savoy cabbage, White cabbage
HV5	Carrots
HV6	Parsnips
HV7	Onions Onions, Shallots, Garlic, Leeks, Chives, Scallions, Spring onions
HV8	Asparagus (permanent crop, not an eligible crop for the purposes of crop diversification.)
HV9	Aubergine Aubergine, Eggplant
HV10	Butternut Squash Butternut squash, Cheese pumpkin
HV11	Celeriac Includes Celeriac, Celery

Land Use Code	Land Type
HV12	Chicory Includes Chicory, Endive, Radiccio, Italian Chicory
HV13	Cucumber
HV14	Herbs
HV15	Horseradish (permanent crop, not an eligible crop for the purposes of crop diversification.)
HV16	Lettuce Lettuce, Romaine lettuce, Cos lettuce, Iceberg lettuce, Butterhead lettuce
HV17	Parsley
HV18	Spinach
HV19	Radish
HV20	Squash Pumpkins, Squashes, Marrows, Zucchini, Courgettes
	Horticulture - Fruit
HF1	Strawberry
HF2	Tomato
HF3	Rhubarb (permanent crop, not an eligible crop for the purposes of crop diversification.)
HF4	Raspberries, Mulberries, Blackberries, Loganberries, Currants, Cranberries, Bilberries (permanent crops, not eligible crops for the purposes of crop diversification.)
	Nitrogen Fixing Crops
NF1	Spring Peas Feed pea, Mange tout, Marrow fat pea, Snap pea, Snow pea, Vining pea
NF2	Spring Field Beans Includes Broad beans, Field beans, Tic beans
NF3	Winter Field Beans Includes Broad beans, Field beans, Tic beans
NF4	Spring Sweet Lupins
NF5	Winter Sweet Lupins
	Fallow Land
FL1	Fallow land for the purposes of EFA and crop diversification
FL2	Fallow land for the purpose of crop diversification - Grass
FL3	Fallow land for the purpose of crop diversification - Non-Grass. This includes the EFS Option "Creation of Arable Margins - 6m width -Cultivated Uncropped".

Land Use Code	Land Type
	Energy Crops
EC1	Short rotation coppice Alder, Birch, Hazel, Ash, Lime, Sweet Chestnut, Sycamore, Willow and Poplar (permanent crop, not an eligible crop for the purposes of crop diversification.) Maximum harvest cycle is 5 years
EC2	Hemp (grown as an energy crop.)
EC3	Miscanthus, Reed Canary Grass (permanent crops, not eligible crops for the purposes of crop diversification.)
	Other
OT1	Flowers
OT2	Lawn Turf
OT3	Non-commercial grazed orchards, grazed woodlands or areas in agroforestry. This includes the EFS Options “Creation of Traditional Orchard” and “Establishment of Agroforestry”.
OT4	Ornamentals and Nurseries Areas of young woody plants. (Permanent crops, not eligible crops for the purposes of crop diversification.)
OT5	Commercial Orchards (commercial orchards used to grow top fruit for example, apples and pears). (Permanent crop, not an eligible crop for the purposes of crop diversification.)
OT9	Land that was eligible claimed and on which SFP was paid in respect of 2008 scheme year and is subsequently (after 31 December 2008) converted to forestry under an EU scheme remains eligible for the duration of the forestry scheme.
OT10	Land that was eligible, claimed and on which SFP was paid in respect of 2008 scheme year and is subsequently (after 31 December 2008) planted with trees under an EU Agri-environment scheme, remains eligible for the duration of the EU Agri-environment scheme. This includes the EFS Options “Planting Native Tree Corridors” and “Establishment of Native Woodland less than 5ha”.
OT11	Land in an EU Forestry Scheme on which SFP was paid in 2008 in respect of set-aside entitlements remains eligible for the duration of the forestry scheme.
OT12	Land in an EU Agri-environment Scheme on which SFP was paid in 2008 in respect of set-aside entitlements remains eligible for the duration of the EU Agri-environment scheme. This includes the EFS Option “Natural Regeneration of Native Woodland.”

Land Use Code	Land Type
OT20	Land that was eligible, claimed and on which SFP was paid in respect of 2008 scheme year and is subsequently (after 31 December 2008) no longer eligible as a result of the implementation of the conservation of natural habitats and of wild fauna and flora Directive (Habitats Directive).
OT21	Land that was eligible, claimed and on which SFP was paid in respect of 2008 scheme year and is subsequently (after 31 December 2008) no longer eligible as a result of the implementation of the Water Framework Directive. This includes the EFS Options “Creation of 2m Riparian Buffer – Ungrazed”, Creation of 10m Riparian Buffer – Ungrazed”, Creation of 2m Riparian Buffer – Planted with Native Trees, and “Creation of 10m Riparian Buffer – Planted with Native Trees”,
OT22	Land that was eligible, claimed and on which SFP was paid in respect of 2008 scheme year and is subsequently (after 31 December 2008) no longer eligible as a result of the implementation of the Wild Birds Directive
OT23	Seed mixture - mixed crop. This includes the EFS Options “Creation of Pollinator Margin – 10m width – Pollen and Nectar” and “Creation of Pollinator Margin – 10m width – Annual Wildflower”.

Hemp

It is a criminal offence to grow hemp in the United Kingdom for any purpose without a licence.

Areas used for the production of hemp shall only be eligible for BPS if the varieties used have a tetrahydrocannabinol content not exceeding 0.2%.

We may penalise you and recover any money you have been paid if you do not meet the conditions of growing hemp.

Seed labels

For hemp, grown on land used to claim BPS, certified seed of one of the eligible varieties must be used. The original official seed labels, confirming the variety, must be forwarded to Area-based Schemes Payment Branch, Orchard House, 40 Foyle Street, Derry/Londonderry, BT48 6AT by the closing date for the Single Application (15 May). These will be receipted by DAERA and returned to you. When sowing takes place after 15 May, these labels must be submitted no later than 30 June. It is recommended that you send your seed labels by recorded delivery.

Eligible varieties

A list of varieties of hemp that may be grown under BPS is available on request from Area-based Schemes Payment Branch in Orchard House.

Contact details:

**Area-based Schemes Payment Branch
Orchard House,
40 Foyle Street,
Derry/Londonderry,
BT48 6AT**

Tel: 0300 200 7848

Email: areabasedschemes@daera-ni.gov.uk.

Sampling and testing

Under EC rules, the United Kingdom must sample and test 20% of all applications which include hemp, 20% of the total area of hemp and all varieties of hemp grown. This is to make

sure that the tetrahydrocannabinol (THC) content of the crop is below the level prescribed by EC legislation. Producers must therefore maintain, for each variety sown, three distinct parts of each field claimed, each part comprising at least 4,000 plants, until at least 10 days after flowering in case sampling is necessary. Growers must not harvest these areas until sampling has been completed or a written notification stating that sampling is not necessary has been received from Area-based Schemes Payment Branch.

In Northern Ireland, an application for a hemp licence should be made on the appropriate form and forwarded to:

**Department of Health
Medicines Regulatory Group
Room D4.29
Castle Buildings
Stormont Estate
Belfast
BT4 3SQ**

Telephone: 028 9052 3274

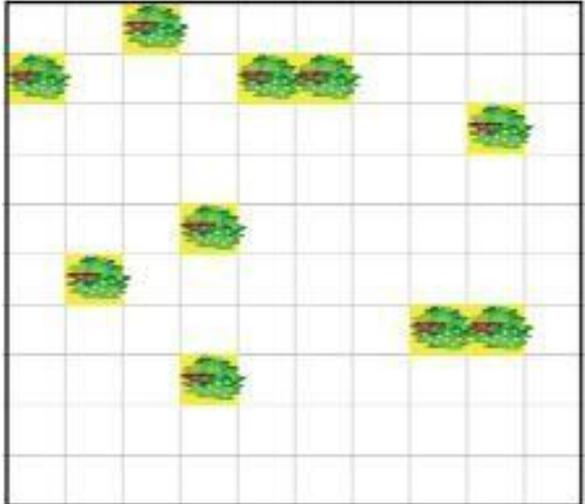
An enhanced Criminal Record Check will be required and applicants are reminded that any application for these should be made well in advance of the proposed planting date.

In considering each application, the authenticity of the applicant and the purpose for growing the hemp, together with the proposed locations of the growing sites, will be taken into account by the Head of Medicines Regulatory Group (MRG).

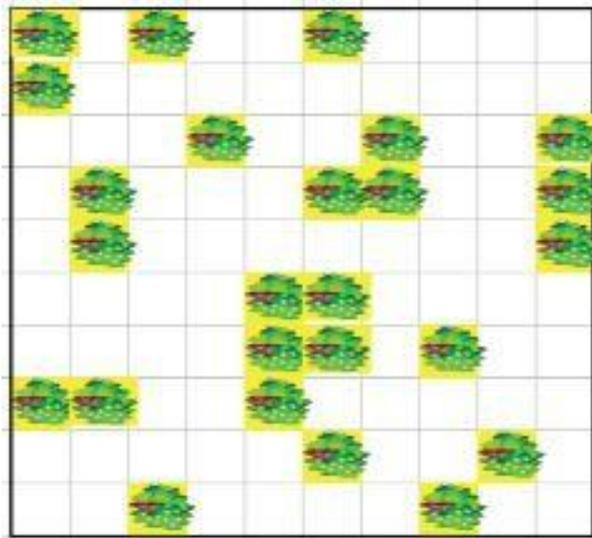
Licence application forms and further advice on the application process can be found on the MRG website or by contacting the Head of the Medicines Regulatory Group (028 9052 3274).

Annex B

Illustrated examples of percentage ground cover (Ineligible Vegetation score card)

Score Card 1	<p data-bbox="469 506 608 539">5% Cover</p> 	<p data-bbox="1083 786 1410 1010">Small isolated clumps of ineligible vegetation which have a very minor impact on grazing.</p> <p data-bbox="1083 1061 1310 1093">2.5% deduction</p>
Score Card 2	<p data-bbox="469 1205 628 1238">10% Cover</p> 	<p data-bbox="1083 1391 1410 1653">Significant number of scattered bushes may form small clumps. Some grazing beneath and between.</p> <p data-bbox="1083 1711 1305 1742">13% deduction</p>

25% Cover

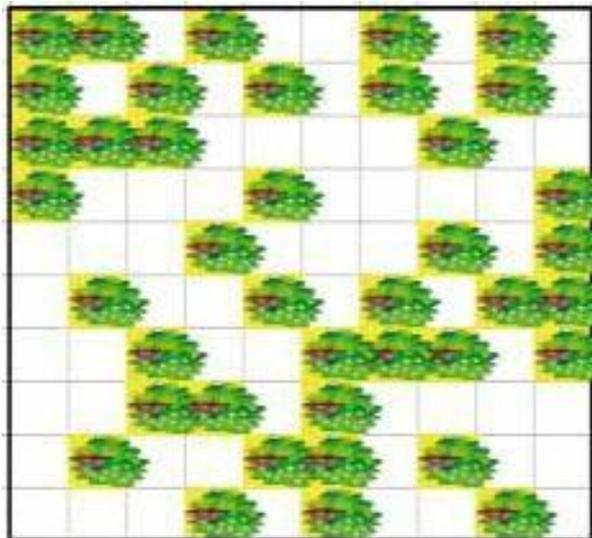


Score Card 3

Some clumps of dense bushes with limited grazing beneath

36% deduction

40% Cover

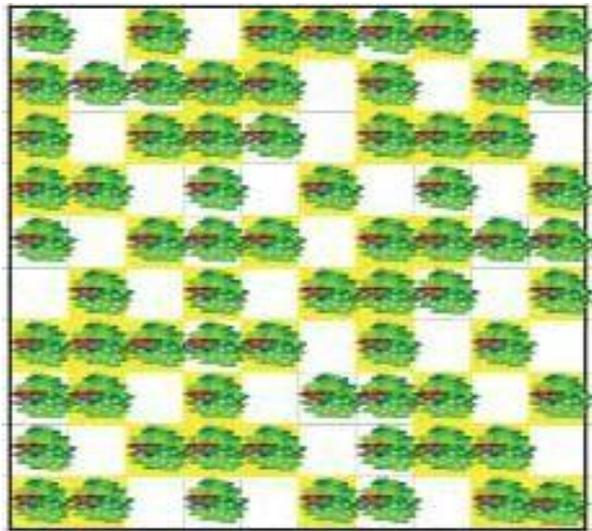


Score Card 4

Dense clumps with restricted grazing accessible between clumps

36% deduction

70% cover



Score Card 5

50%+ very dense clumps access likely to be limited to defined paths. Clumps often greater than 0.01ha

100% ineligible

Annex C

Category A. Permitted activities

The following non-agricultural activities do not significantly interfere with agricultural activity. They won't stop a farmer getting paid for the land, as long as it is eligible for BPS.

- Walking*;
- Bird-watching;
- Nature or farm visits by schools or other educational institutions;
- Horse or bicycle riding along bridleways* or on tracks, margins or other permissive routes;
- Fishing;
- Hedge-laying competitions, local ploughing competitions or other demonstrations of farming that do not affect the land being in GAEC. This excludes events where trade stands are used, which fall under category B;
- Shooting (game);
- Deer stalking;
- Drag hunting; and
- Paragliding and hang-gliding.

**** Paths or bridleways that are metalled or surfaced would, in any event, be considered ineligible land.***

Category B. 28 day limit

These non-agricultural activities are allowed - but not for more than 28 days (consecutively or not) in the calendar year:

- Clay shooting ;
- Car boot sales;
- Car parking (whether it is for any of the activities listed or not);
- Country fairs and shows;
- Farm auctions and shows;
- Horse riding activities using apparatus or fixtures, such as show-jumping, or an in-field cross-country course;
- Ballooning;
- Festivals and events;
- Scout or guide camps or similar;
- Filming for television or other productions;
- Caravan sites (if you do have a caravan site that is used for more than 28 days, exclude this area from your application. This need not affect a whole field);
- Motor sports;
- Grass airstrips;
- Rearing game in pens;
- Demonstrations of farming (such as hedge-laying competitions or local ploughing competitions) that include trade stands.

Category C.

Activities in the following category are generally not permitted as the principal purpose of the land is for recreational or other non-agricultural activities:

- golf courses;
- any other permanent sports facilities;
- race courses/gallops;
- airstrips/airports;
- solar panels;
- zoological conservation (land on which animals, not typically used in Northern Ireland for farming purposes, are kept primarily for study, conservation or display to the public).

The examples given are not exhaustive but where the principal purpose of the land is for recreational or other non-agricultural activities it is generally not eligible for BPS. However such areas may be considered eligible if you can show that they are used for agricultural activity on a significant and consistent basis throughout the year and that the agricultural activity is not significantly hindered by the non-agricultural activity.

If you rear game, this is also seen as a non-agricultural activity. The area taken up by the pens for rearing game is not eligible for BPS. However, if the pens are present on this area for 28 days or less in a calendar year, the area will be eligible for BPS.

Restrictions on activities - how they work

The restrictions for Categories B and C apply throughout the calendar year. You will need to make sure that any land that is in agricultural use meets the Cross-Compliance standards for the whole calendar year.

You must not claim for any ineligible features on the land.

Where there are 28 day limits, these apply to the number of actual days that the activity takes place. You cannot spread the 24 hours of each 'day' over several days. You must also count days when you have reserved the land or are preparing for the activity, not just the days of the activity itself.

If you go over the 28 day limit, we will count the area where the activity has taken place as being ineligible. In other words, we will not count your whole holding as being ineligible, just the affected area. If you go over the 28 day limit due to circumstances that are completely beyond your control, please let us know and we will consider your case.

There may be other limits on what you can do with the land, for example, planning restrictions.

Annex D Contact Details

DAERA Grants and Funding - Tel: 0300 200 7848

E-mail: areabasedschemes@daera-ni.gov.uk

Countryside Management Delivery Branch
Countryside Management Unit
2nd Floor
Molesworth Place
Molesworth Street
Cookstown
BT80 8NX

Tel: 0300 200 7842

E-mail: cmbenquiries@daera-ni.gov.uk

College of Agriculture, Food and Rural Enterprise (CAFRE)
Greenmount Campus
45 Tirgracey Road
Muckamore
ANTRIM
BT41 4PS

Tel: 0300 200 7841

Forest Service
Grants and Regulations Branch
1st Floor
Inishkeen House
Killyhevlin
ENNISKILLEN
BT74 7EJ

Tel: 028 66 343019

E-mail: grants.forests@daera-ni.gov.uk

Northern Ireland Environment Agency
Conservation Designations and Protection
Department of Agriculture, Environment and Rural Affairs
2nd Floor
Klondyke Building,
Cromac Ave,
Malone Lower,
Belfast, BT7 2JA

E-mail: CDP@daera-ni.gov.uk

Tel 028 90569546

Other sources of advice

Ulster Farmers' Union (UFU)
475 Antrim Road
BELFAST
BT15 3DA

Tel: (028) 9037 0222

E-mail: info@ufuhq.com

NI Agricultural Producers' Association (NIAPA)
15 Molesworth Street
COOKSTOWN
BT80 8NX

Tel: (028) 8676 5700

Northern Ireland Agricultural Consultants Association (NIACA)
35 Main Street
Dromore
Co Tyrone
BT78 3AE

Tel: (028) 8289 8179



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