Basic Payment Scheme in England 2015

Claiming common land

Version 3, May 2015
Register now
To get your Basic Payment Scheme payment, you need to be registered online at:
www.gov.uk/ruralpayments

If you can’t get online to register, there is extra support to help you. Call 03000 200 301
Introduction

‘The Basic Payment Scheme in England 2015’ explains that farmers can claim under the Basic Payment Scheme (BPS) for the grazing rights they have for a common or area of shared grazing. It sets out:

• what rights farmers can use to claim
• what evidence of those rights they must keep
• the rules on claiming owner’s surplus
• how to describe rights if a farmer has a right of grazing for more than one kind of animal

Read the BPS guidance for 2015: www.gov.uk/rpa/bps

This additional guidance explains how the Rural Payments Agency (RPA) will work out how much of the eligible area of a common or area of shared grazing a farmer can claim on. This is different from the Single Payment Scheme (SPS).

This guidance also explains how to claim commons rights on the New Forest.
How the eligible area of a common is calculated

The RPA has mapped common land for BPS in 2015. For many commons the area that is eligible for BPS has decreased, because RPA has identified ineligible areas and deducted them.

In some cases, common land boundaries have also changed. This means that, for some commons, the eligible area may have increased.

RPA will use these maps to calculate the total eligible area of a common for BPS and to check that farmers are meeting the rules of the EU schemes they’re applying for.

The registers of common land held by local authorities are the legal record of common land – the RPA’s maps don’t define the ownership or the legal boundaries of commons.

How the eligible area of a common is allocated

Under BPS, farmers will only be allocated a share of the common’s eligible area if they:

- use the common; and
- declare their rights in part E of their BP5 application form (even if they don’t claim payment for them)

Farmers who are not using the common cannot claim payment on it and must not declare rights for it in part E of their BP5 application form.

What ‘using’ a common means

A farmer is ‘using’ a common if they exercise their grazing rights by turning out stock on it. If so, they must declare all of their rights in Part E of their BP5 application form, even if they choose not to claim for payment in column E7.

A farmer is also ‘using’ a common if they do either of the following (they can choose whether to declare their rights in Part E and claim payment):

- participate in an Environmental Stewardship agreement on the common
- contribute to the appropriate management of the common by keeping some of it in a state suitable for grazing or cultivation by keeping it clear of any scrub that can’t be grazed, or by some other beneficial activity (for example clearing bracken or maintaining boundary walls or fences).

RPA will allocate the entire eligible area of the common amongst those farmers who have declared their rights on it.

RPA can only calculate this after all BPS applications have been submitted, because they need to know:

- the total number of rights of common declared by all farmers that year
- how many rights each individual farmer declares (as a percentage of that total)
RPA uses that percentage to calculate each farmer’s ‘notional area’ – the amount of eligible land in hectares that the farmer can claim for this common.

**Owner’s surplus**

Owners of common land can claim ‘owner’s surplus’ on some commons if they use it. RPA will work out whether there is an owner’s surplus or not. To do this, they use all the rights registered on a common. This is the same as for SPS – read page 16 of the ‘The Basic Payment Scheme in England 2015’ for more information.

Claims for owner’s surplus will be treated in the same way as other claims. If not all the rights on the common are declared, and there is an increase in allocated area, this will be shared in proportion between:
- the owner
- the commoners who use the common and who declare their rights in part E of their application

**Example**

If an owner’s surplus has been calculated as being equivalent to 25 Livestock Units (LU) and the commoners’ rights total 75 LU, the owner’s share of the area of the common where all rights are being declared would be 25 LU/100 LU and the commoners would be allocated 75/100.

If 25 LU are not declared by commoners, the owner’s share of the total area would increase to 25/75 and commoners would receive 50/75.

**What this means for farmers in 2015**

How much of a common a farmer will be allocated to claim on will depend on both:
- the new maps – which might mean commons have a smaller eligible area for BPS; and
- the new way of calculating payments – because, if not all the rights for a common are declared, farmers will be allocated a bigger share of the eligible area than under SPS

**Preparing to use entitlements in 2015**

It might be difficult for some farmers to know how many entitlements they will need to use for their BPS claim in 2015. That’s because:
- the area allocated can only be confirmed after the claim deadline, when all applications have been submitted; and
- the new maps mean that the eligible area on many commons has changed

To help reduce uncertainty, farmers may choose to:
- share information with other commoners, for example through meetings of the commoners’ or graziers’ association
- read information about which rights were claimed on a common in 2005 and 2014 – RPA will publish this on GOV.UK
Farmers who don’t have enough eligible land to go with their entitlements in 2015 will lose some of their entitlements. Read ‘Losing excess entitlements in 2015’, on page 29 of ‘The Basic Payment Scheme in England 2015’.

Preparing to meet the ‘greening’ rules in 2015

Most commons are permanent grassland.

The new way of allocating the eligible area of a common means that, for some commons, farmers will have a larger area of permanent grassland to use to meet their BPS greening rules in 2015. Depending on the number of entitlements they have, some farmers may also receive a larger greening payment.

Read about the ‘greening’ rules on pages 31 to 48 of the BPS guidance for 2015.

How to claim on commons for BPS

Farmers should use the BP5 application form (part E) to declare the commons rights they have and which ones they want to claim payment for in 2015.

RPA will check the information supplied against the definitive record of rights held on the commons register. Then, after all of the applications have been submitted, RPA will work out how much of the eligible area the farmer can claim on.
How to claim commons in the New Forest for BPS

Farmers should use the BP5 application form (part E) to declare the common rights they have in the New Forest and at E5 ‘Number of rights of this type’ record how many marking fees they paid on the New Forest in 2014. To do this, they should convert the marking fees they paid in 2014 to standard livestock units using the table shown on page 16 of ‘The Basic Payment Scheme in England 2015’.

Farmers claiming basic payments in 2015 must declare their rights of common in Part E of the BPS application form if they paid marking fees in 2014. If they don’t want to claim on those rights, they should tell us this in column E7.

Evidence needed

To show RPA the marking fees they paid in 2014, farmers need to send copies of the marking fee receipts, together with their application form, to RPA.

RPA must receive these by midnight 15 June 2015 (the BPS application deadline).

The receipts need to show that the marking fees were paid for animals grazed in the New Forest in 2014 and be signed by an agister on behalf of the Verderers. Farmers may have paid some fees in 2014 in advance for animals to be turned out in 2015. RPA can’t accept these – farmers can only use receipts from 2014 for grazing in 2014.

Each marking fee receipt can be used to support only one application.

The receipts may be checked against records held by the Verderers.

When will RPA let you know

RPA can’t calculate the notional area that each farmer can claim for until all BPS applications for 2015 have been submitted. However, because the allocated eligible area of the common is expected to increase, it’s likely that one livestock unit will be worth more in 2015 than it was in 2014.

Preparing to use entitlements in 2015

As RPA can’t tell farmers what their notional claim area will be until after they submit their BPS 2015 application, it will be difficult for farmers to know how many entitlements they will need. However, because the allocated area of the common is expected to increase, it’s likely that one livestock unit will be worth more in 2015 than it was in 2014.
Farmers with more entitlements than hectares of eligible land in 2015 will lose some of their entitlements. See ‘Losing excess entitlements in 2015’, on page 29 of ‘The Basic Payment Scheme in England 2015’.

Preparing to meet the ‘greening’ rules in 2015

The eligible common land in the New Forest is mainly permanent grassland. Farmers can use their notional area of permanent grassland to meet the greening rules. But because RPA can’t tell farmers what the area will be until after 15 June 2015, if farmers want to use permanent grassland on the New Forest common to meet the greening rules, they won’t know the exact area they can use when they submit their application.

Read about the ‘greening’ rules on pages 31 to 48 of the BPS guidance for 2015.
More information

Contact RPA

All written queries, or evidence to support BPS applications, should be sent to:
Rural Payments
PO Box 352
Worksop
S80 9FG

(A different address is used for cross compliance. Read ‘The guide to Cross Compliance in England 2015’ for more information).

Email: ruralpayments@defra.gsi.gov.uk

Call: 03000 200 301 open 8.30am to 5pm Monday to Friday (except Bank Holidays).

Website: www.gov.uk/rpa

Twitter: @Ruralpay

When you contact RPA please give your Single Business Identifier (SBI) and your business name.

If you’re deaf, deaf blind, deafened, hard of hearing or speech impaired and have a text phone, you can use Text Relay (previously known as Type Talk). This is a telephone relay service that means you can communicate with hearing people by telephone. To contact RPA using Text Relay, dial 18001 03000 200 301 from your text phone.

To use text relay on a device such as a smartphone or computer you also need to download the free Next Generation Text app from www.ngts.org.uk or from a marketplace such as Google Play or the App Store.

You can make a text relay call in a number of different ways and using a number of different devices.

For more information go to www.ngts.org.uk

To receive this guidance in large print, or another alternative format, contact the RPA.

How to complain

Farmers or agents who are unhappy with a decision or service they’ve had from RPA, can call, email or write to RPA.

For contact details and more information about how to complain or appeal go to www.gov.uk/rpa and click on ‘Complaints procedure’ in the ‘Corporate Information’ section.
BPS regulations

This guidance is not the law. It’s designed to help farmers follow the Basic Payment Scheme rules. For legal advice, contact a legal professional.

The main European regulations are:

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<thead>
<tr>
<th>Direct Payments</th>
<th>Regulation (EU) No 1307/2013</th>
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<tbody>
<tr>
<td>Financing, Management &amp; Monitoring (IACS)</td>
<td>Regulation (EU) No 1306/2013</td>
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The European Commission delegated and implementing regulations are:

<table>
<thead>
<tr>
<th>Direct payments Delegated Regulation</th>
<th>Regulation (EU) No 639/2014</th>
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<tbody>
<tr>
<td>Direct payments Implementing Regulation</td>
<td>Regulation (EU) No 641/2014</td>
</tr>
<tr>
<td>IACS Delegated Regulation</td>
<td>Regulation (EU) No 640/2014</td>
</tr>
<tr>
<td>IACS Implementing Regulation</td>
<td>Regulation (EU) No 809/2014</td>
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Domestic regulations:


For more information, go to www.legislation.gov.uk.

If the regulations change or the interpretation of them changes, RPA will publish more information.

Data Protection

Defra is the data controller for personal data you give to us or we hold about you. We use it in line with the Data Protection Act.

For more information, go to www.gov.uk/rpa, choose ‘Contact RPA’ and click on ‘Personal information charter’.

Farming Community Network

Farming people who need any help or support can call the Farming Community Network (formerly the Farm Crisis Network).

They give pastoral and practical support to farming people during times of worry, stress and problems about the farming business and the farming home.

They run a helpline from 7am to 11pm every day of the year and are staffed by a team of volunteers.

Call 0845 367 9990.

Email: mail@fcn.org.uk.

Website: www.fcn.org.uk.
Legal notice

This guidance is our interpretation of the current regulations for the Common Agricultural Policy schemes from 2015. Only the courts can give a definitive interpretation of the law.

You may want to get independent professional or legal advice before you change anything about your business. We cannot advise you or your legal representatives on your business structure.

Applicants may want to get independent professional or legal advice before they change anything about their business. We cannot advise applicants or their legal representatives on business structure.