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# Consultation on implementation of the CAP Health Check reforms relating to the Single Payment Scheme and other direct payments

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## Introduction

1. The recent Common Agricultural Policy (CAP) 'Health Check' introduced a number of changes to the EU rules for the Single Payment Scheme (SPS) and other direct payment schemes for farmers. This consultation seeks your views on some of the choices we have about how we implement these changes in England.
2. We have divided this consultation paper into three sections:
  - Section A: Minimum Claim Size
  - Section B: Objective Farmer Test
  - Section C: Decoupling of Nuts and Protein Payments
3. An overview of the SPS is attached as an Annex.
4. This is one of a series of Defra consultations on different aspects of the Health Check. The other consultations are:
  - Consultation on proposed changes to standards in cross compliance Good Agricultural and Environmental Condition (GAEC) and related measures in England ([www.defra.gov.uk/corporate/consult/geac/index.htm](http://www.defra.gov.uk/corporate/consult/geac/index.htm)) - Closes on 27 May 2009
  - [Consultation on the implementation of the CAP Health Check milk quota increases](http://www.defra.gov.uk/corporate/consult/milk-quota09/index.htm) ([www.defra.gov.uk/corporate/consult/milk-quota09/index.htm](http://www.defra.gov.uk/corporate/consult/milk-quota09/index.htm)) – This consultation is now closed.

## Background to the CAP Health Check

5. The CAP Health Check was a scheduled review of the CAP, following the last major reform in 2003. The changes to the EU rules introduced in the CAP Health Check were designed to streamline and modernise the CAP and ensure it is working effectively, efficiently and simply. Political agreement was reached at the EU Agriculture Council on 20 November 2008 and Council Regulation (EC) 73/2009 was formally adopted on 19 January 2009.
6. Further details on the CAP Health Check can be found at: [http://ec.europa.eu/agriculture/healthcheck/index\\_en.htm](http://ec.europa.eu/agriculture/healthcheck/index_en.htm)

## Previous consultations

7. From June to September 2008, Defra carried out a consultation on the Commission's proposals for the CAP Health Check and an analysis of the impacts can be found in the Health Check Impact Assessment at: [www.defra.gov.uk/farm/policy/capreform/pdf/caphealthcheck-revised-ia-090216.pdf](http://www.defra.gov.uk/farm/policy/capreform/pdf/caphealthcheck-revised-ia-090216.pdf)

## **Section A: Minimum Claim Size**

### **Background**

8. Since the introduction of the SPS in 2005 the minimum total area which a farmer in England could claim under the SPS and other direct payment schemes (Aid for Energy Crops, Area Payment for Nuts and Protein Crop Premium) has been 0.3ha. The only exception has been those livestock farmers who hold 'special entitlements', as these farmers do not need land in order to claim an SPS payment.
9. Following concerns that Member States were having to spend a lot of time and money processing very small claims, changes to the EU rules were introduced as part of the CAP Health Check. As a result, Member States are required to set a new minimum total claim size of at least 1ha for claims under the SPS and, whilst they remain (see Section C), the Area Payment for Nuts and Protein Crop Premium. This new minimum does not apply to any other schemes. The new minimum will apply from the 2010 SPS scheme year.
10. Member States are able to choose whether to base the new minimum claim size on area or monetary value. We have decided to base the minimum on area, as basing it on a monetary value would still require significant processing of each claim to calculate its value, which would remove the intended administrative cost savings.
11. Member States also have some choice as to the level of the minimum. For the minimum area option, in the UK we are able to choose a minimum of between 1ha and 5ha. We are now seeking your views as to what minimum area we should choose in England.
12. Different arrangements apply to special entitlements. Where a farmer holds special entitlements, the minimum claim size must be based on a monetary value and we have decided to set this as €200 (the highest amount we are allowed to choose). This decision has been made to maximize the administrative cost savings.

### **Discussion of options**

13. In our Impact Assessment we have assessed three options, the lowest claim size possible (1ha), a mid-range claim size (3ha) and the highest claim size possible (5ha). The estimated number of farmers to be excluded from claiming payment ranges from around 1,500 if the minimum claim size is set at 1ha (the lowest we are allowed to set) to around 17,000 if it is set at 5ha. Further information about the effect of choosing different minimum areas is shown in the following table:

| Minimum claimed area | No. of SPS claims (and % of the total no. of SPS claims)* | Average value of claim* |
|----------------------|---|-------------------------|
| 1 ha                 | 1,500 (1.4%)  | €546                    |
| 2 ha                 | 5,500 (5.2%)  | €546                    |
| 3 ha                 | 10,000 (9.4%)   | €614                    |
| 4 ha                 | 13,800 (13.0%)  | €691                    |
| 5 ha                 | 17,000 (16.0%)  | €758                    |

\* Figures are cumulative and based on RPA data for the 2008 SPS scheme year.

14. Farmers who are below the new minimum will keep their SPS entitlements. However, these would be lost to the National Reserve if they are not used to claim payment for two years. Farmers who do not wish to lose their entitlements could lease or purchase additional entitlements and/or land to bring their claim size above the new minimum hectareage. Alternatively, they could sell or lease their entitlements to another farmer. The lower the minimum claim size, perhaps the less likely it is that farmers will consider it worthwhile to take these actions.
15. A higher minimum area would lead to greater annual administrative savings for the Rural Payments Agency (RPA) as they would have fewer claims to fully process and inspect (although some initial processing of the claims would still be required). In our Impact Assessment we show the details of the annual RPA cost savings of each option as well as the one-off RPA costs of introducing the new minimum. It is also worth noting that the introduction of the minimum claim size will increase the average cost of processing a claim as smaller claims take significantly less resource to process.
16. A reduced number of claims to process could have some knock-on benefits to overall scheme processing. For example, choosing a minimum size of 5ha would free-up around 24 RPA processing staff (3% of the total number of SPS processing staff) to process other claims.
17. The introduction of the minimum claim size will reduce the area which is subject to cross compliance. However, even with the 5ha minimum, only around 135,000ha (1.6% of the total area declared on SPS applications in England) will be excluded so the effect will be relatively small.
18. Whichever minimum area is chosen, we do not expect the new minimum claim size to lead to an increase in the value of entitlements held by other farmers.

**Question 1 – What should the minimum claimed area be?**

- a. 1ha
- b. 3ha
- c. 5ha

If you would prefer an alternative minimum area (but it must be between 1ha and 5ha) please let us know.

## Section B: Objective Farmer Test

### Background

19. In response to some concerns at EU level that SPS payments were not being directed to 'genuine farmers', Member States have been given the option of setting objective criteria to exclude the following individuals and businesses from the scheme:
  - those whose agricultural activities form only an insignificant part of its overall economic activities; or
  - those whose business purpose or company objectives do not consist of exercising an agricultural activity.
20. If we decide to take up this option, the objective criteria would apply from the 2010 SPS scheme year and would cover claims for SPS and, whilst they remain (see Section C), Protein Crop Premium and Area Payment for Nuts. No other schemes would be affected. We are seeking views on whether we should introduce an 'objective farmer test' and, if so, what objective criteria we should apply.
21. As is the case with the minimum claim size, farmers who fail the objective farmer test will keep their entitlements (assuming that they did meet the existing EU definition of a farmer – see Annex). However, if the entitlements are not used to claim payment for two years they will be lost to the National Reserve.

### Discussion of options

22. If criteria are to be introduced they must be objective. We would need an objective way of assessing whether a farmer's agricultural activities were only an 'insignificant' part of his overall economic activities or a way of determining whether the business purpose or company objectives consist of an agricultural activity. It must be practical for farmers to supply the necessary information and for RPA to check that information and then make an objective assessment.
23. Introducing an objective farmer test would exclude those who are not involved in agriculture to any significant extent. This may be attractive as it could result in SPS payments being limited to the core industry, rather than those at the margins for whom the SPS payment is a less significant proportion of their income.
24. However, we would also want to make sure that the objective criteria did not unintentionally rule out those who are genuinely farming the land. For example, if we required an applicant's income from agriculture to be at least a certain percentage of his overall income, this could exclude some farmers who have diversified into non-agricultural activities (particularly where that diversification has been very successful). At what point should we consider

that he/she is no longer an eligible farmer? Another point worth noting is that, as relative farm and non-farm incomes will vary from year to year, so could each farmer's eligibility for payment.

25. An objective farmer test could also have the unintended consequences of discouraging farmers from diversifying (or even, for those who have already diversified, encouraging them to give up their diversified activities). It could also exclude some part-time farmers or farmers in semi-retirement and we would need to consider the extent to which this is desirable. It could also potentially affect large organisations which have farming as just one of many strands of activity. These issues need to be considered when defining any objective criteria.
26. Introducing an objective farmer test would create additional administrative burdens for both farmers and RPA. It is likely that applicants would need to provide additional information about their business (both farming and non-farming parts of the business) to enable RPA to carry out an annual assessment against the objective criteria. It would be important for the objective criteria to be clearly defined to avoid RPA having to make subjective decisions. Any subjective element is likely to increase the number of appeals raised by farmers against the decisions taken.
27. Whilst there would be some administrative savings for RPA as a result of fewer claims to fully process, this needs to be balanced against the increased costs of carrying out the new test and a potential impact on the timing of payments. The relative costs and benefits cannot be properly assessed until the objective criteria, on which we are now seeking your views, have been identified. Our current preference, given the issues described above, is not to introduce such a test.
28. The number of farmers to be excluded if an objective farmer test were to be introduced would be dependent on the objective criteria chosen.

**Question 2 – Should we introduce an objective farmer test? If yes, what objective criteria should be set?**

- a. No, maintain the status quo. (This is currently our favoured option given the extra administration burden that would result from an objective farmer test along with the difficulty of defining suitable criteria.)
- b. Yes, introduce an objective farmer test. (Please specify nature of test)

## Section C: Decoupling of Nuts and Protein Payments

### Background

29. The Area Payment for Nuts and Protein Crop Premium are schemes for farmers which have payment linked to production (so called 'coupled' support). The annual payments are based on the area of eligible nuts and protein crops grown and can be paid in addition to the SPS. In England in 2008 65 farmers claimed the Area Payment for Nuts and around 5,400 claimed the Protein Crop Premium.
30. Following the Health Check these two schemes must be decoupled by 2012 at the latest. This means that the schemes will end and the funding (around €10 million for England) will transfer into the SPS. We have some choices about how this funding is added into the model of the SPS which we have in England.
31. Under the existing English SPS model, all the available SPS funding should, by 2012, be divided equally between all claimants in each of the three English SPS regions on a flat rate per entitlement basis. Up until 2012 there is a transition period during which an initially low proportion of the available funds is used to fund the flat rate values with an initially high, but declining, proportion of the funds being used to add 'historic reference amounts' to the value of claimants' entitlements based on past receipts under the schemes that existed prior to the SPS.
32. We have the following choices about how we add the nuts and protein funding into this SPS model:
  - whether to initially allocate the €10 million funding to nuts and protein growers (i.e. on a historic basis), to allocate it across all SPS entitlements (i.e. on a flat rate basis) or use a mixture of these. We also have a choice as to when this happens (2010, 2011 or 2012).
  - if some or all funding is to be allocated on a historic basis, the reference year which is to be used to distribute this part of the funding amongst nuts and protein growers.
33. We are seeking your views on the options available to us.
34. Following the Health Check, processing aid for hemp, fibre flax and dried fodder will also be decoupled. These aid schemes must end in 2012 (and it cannot be earlier) and the funds will be transferred to the SPS. As in England by 2012 all of the SPS funding will be used to fund the flat rate value of entitlements, we plan to add the additional funding to the flat-rate.

## **Whether to allocate the funding on a historic or flat rate basis**

35. When deciding which allocation method to use we will consider how well it fits with our existing SPS model.
36. We have considered the following options:

### **Flat rate allocation in 2012 (Option A):**

37. Under our SPS model, all payment entitlements within each of the three English regions will have the same payment rate by 2012. One option for allocating the nuts and protein funding is to add all these funds (€10 million) into the flat rate value of entitlements held by all SPS applicants in 2012. This would mean that nuts and protein growers would be able to claim the Area Payment for Nuts and Protein Crop Premium for the last time in 2011 and then in 2012 all existing SPS entitlements would be increased in value by a small percentage (less than 0.5%).
38. This approach would be consistent with our SPS model. It would also be the simplest option to administer.

### **Historic allocation in 2010 (Option B):**

39. We are also able to allocate the funding, initially at least, on a historic basis. Under Option B we would allocate all of the available funding (€10 million) in 2010 to those farmers who previously claimed Area Payment for Nuts or Protein Crop Premium. (In Question 4 of this consultation we ask for views as to which reference year should be used to decide which nuts and protein growers will be eligible for the additional funding). This would mean increasing the value of the historic element of their existing entitlements. Where eligible nuts and protein growers do not already hold entitlements, they would be able to apply for some.
40. In 2011 the funding would be distributed using the standard SPS flat rate/historic splits i.e. 10% would be allocated on a historic basis and 90% on a flat rate basis. By 2012 all of the funds would be allocated on a flat rate basis.
41. In 2010 protein and nuts growers will receive the same funding as before decoupling (€10m). After 2010 they will receive less (and other SPS applicants will receive more) as a progressively smaller proportion of SPS entitlement values are based on the historic element (in line with the current SPS model).
42. Under Option B, funding will transfer more quickly from historic nuts and protein growers to other SPS applicants than would be the case under Option A.

43. This option would be more complex and costly than Option A for RPA to administer.

**Other allocation (Option C):**

44. Alternatively, you are invited to suggest other methods. This could include:
- variations on the timing (such as allocating the funding to the flat rate in 2010, rather than in 2012)
  - allocating the funding using different historic/flat rate splits
  - using different objective criteria to allocate the funds.

**Question 3: How should the nuts and protein funds be added into the SPS?**

- a. Add to the flat rate value of existing entitlements in 2012
- b. Allocate funding on a historic basis in 2010
- c. Other allocation method. (Please specify how and when the funds would be added into the SPS).

**The reference year to be used to allocate funds on a historic basis**

45. If we decide to allocate some or all of the funds on a historic basis (as would be the case if Option B was chosen for Question 3 and could be the case if Option C was chosen), the funds would be allocated to farmers who claimed Area Payment for Nuts or Protein Crop Premium in a previous year(s). We can choose whether this is a single year or several years, but it must be within the years 2005 to 2008.

**Single reference year of 2008 (Option A):**

46. Our initial view is that the reference period should be as recent as possible to best reflect current production and, for simplicity, it should be a single year. For these reasons we propose 2008 as the reference year. This would mean that the portion of the funding to be allocated on a historic basis would be divided between around 5,465 farmers.

**Average of reference years 2005-2008 (Option B):**

47. If an average of the years 2005-2008 was used as the reference period, the portion of the funding to be allocated on a historic basis would be divided between around 13,360 farmers. Choosing multiple years would increase the costs and complexity for RPA.

**Question 4: What reference year should be used?**

- a. Single reference year of 2008. (This is currently our favoured option).
  - b. Average of reference years 2005-2008.
- If you would prefer an alternative combination of years (within the period 2005-2008), please let us know.

# Annex

## An Overview of the Single Payment Scheme

The Single Payment Scheme (SPS) is the principal agricultural payment scheme in the European Union.

To claim under the SPS you must be a 'farmer'. You do not need to undertake any agricultural production to be considered to be a farmer, but you do have to comply with standards covering public, animal and plant health, environmental and animal welfare (known as cross compliance).

To claim under the scheme you must hold SPS entitlements. You must also have an eligible hectare of land for each entitlement you wish to claim payment on and this land must be at your disposal on 15 May of the scheme year.

Entitlements form the basis of the value of SPS payments. By 2012, all entitlements will be valued at a flat rate in each of the three English areas:

- English moorland within Severely Disadvantaged Areas (SDA)
- Other English upland SDA
- England outside the SDA.

The rate will be different in each area.

However, the scheme is designed with a period of transition up until 2012. During this transition, the unit value of each English entitlement will be the combined value of the area flat rate for the scheme year and, if applicable, any historic reference amount (which is based on the farmer's historic agricultural payment scheme receipts in the reference period 2000-2002). The flat rate element of the entitlement value increases each year and, where applicable, the historic element decreases. The proportions of the SPS ceiling used to fund the flat rate element (with the remainder being used to fund the historic element) each year are:

|      |     |      |      |
|------|-----|------|------|
| 2005 | 10% | 2009 | 60%  |
| 2006 | 15% | 2010 | 75%  |
| 2007 | 30% | 2011 | 90%  |
| 2008 | 45% | 2012 | 100% |

The flat rate values of entitlements for the 2008 scheme year were:

|                                 |         |
|---------------------------------|---------|
| English moorland within the SDA | € 20.53 |
| Other English upland SDA        | €116.21 |
| England outside the SDA         | €141.93 |