



Subject: CAP Reforms 2014-2020: Implementation Decisions in the UK

Standard Note: SN06929
Last updated: 3 July 2014
Author: Emma Downing
Section: Science and Environment Section

Common Agricultural Policy (CAP) reforms for 2014-2020 are now being implemented across the European Union. There is a considerable amount of flexibility for each Member State to implement the reforms in the way that best suit their own farming systems. The UK Government secured agreement that, the devolved administrations should also have this flexibility. This means that a variety of implementation decisions have now been made or are being consulted upon across the UK.

This note has been expedited for Estimates Day (7 July 2014) and currently concentrates on English decisions but provides some comparisons with the devolved administrations. The paper will be further developed to provide a broader UK overview and further stakeholder comment on House of Commons Library Research Paper 13/64 [CAP reform 2012-2020: EU agreement and Implementation in the UK and in Ireland](#) (November 2013)

Key decisions include:

Modulation: The transfer of budget allocation between Pillar 1 (Direct Payments) and Pillar 2 (Rural Development). England 12% (to be raised to full 15% in 2018 and 2019 after review), Wales 15%, Scotland 9.5% and Northern Ireland 0% (due to a procedural issue with a possible review in 2017)

Greening: UK administrations will follow the set EU greening criteria rather than introducing their own equivalent certification scheme but Scotland is seeking some equivalent measures. The criteria have to be met by farmers to secure 30% of their Direct Payment. These relate to crop diversification (3 crop rule), grassland and Ecological Focus Areas (EFAs)

Coupled payments: Only Scotland will take up the option of coupled payments i.e. payment linked to production for certain sectors. There will be coupled support for the beef and sheep sectors.

In England, although the National Farmers Union and environmental groups alike are critical of the overall EU reform package, they have conceded that the UK Government has done the "best of a bad job" in most areas of implementation.

However, there are outstanding concerns: the NFU remains concerned about the impact of the diversification requirements and landscape features which can count towards the greening criteria. Meanwhile, environmental groups such as the RSPB remain concerned that the greening criteria will deliver little environmental value. However, there is widespread support for the emerging shape of the New Environmental Land Management Scheme (NELMS) which will use Pillar 2 funds to reward farmers for farm management that promotes specific environmental objectives.

Contents

1	CAP reforms 2014-2020	4
1.1	Main elements of the reforms	4
1.1	UK budget allocations	5
2	UK Government implementation (England)	6
2.1	Key implementation milestones	6
3	Key issues	6
3.1	Modulation	10
	UK Government	10
3.2	Greening requirements	12
	Double funding	13
	The Three Crop Rule	13
3.3	Ecological Focus Areas	15
	Hedges	17
3.4	Cross compliance	17
3.5	Active Farmer Test	17
3.6	Rural Development (Pillar 2)	18
	UK Government plans	19
	New Environmental Land Management Scheme (NELMS)	20
4	Devolved Administrations	23
4.1	Scotland	25
	Stakeholder reactions	27
4.2	Northern Ireland	23
	Stakeholder reaction	24

This information is provided to Members of Parliament in support of their parliamentary duties and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as being up to date; the law or policies may have changed since it was last updated; and it should not be relied upon as legal or professional advice or as a substitute for it. A suitably qualified professional should be consulted if specific advice or information is required.

This information is provided subject to [our general terms and conditions](#) which are available online or may be provided on request in hard copy. Authors are available to discuss the content of this briefing with Members and their staff, but not with the general public.

4.3	Wales	27
	Stakeholder reactions	28
5	Next Steps	28
6	Annex 1	29
6.1	Key documents and consultations	29
	UK Government	29
	Northern Ireland	29
	Scotland	30

1 CAP reforms 2014-2020

The CAP reforms 2014-2020 were agreed at political level in June 2013 and implementing regulations have been finalised.

House of Commons Library Research Paper 13/64 [CAP reform 2012-2020: EU agreement and Implementation in the UK and in Ireland](#) (November 2013) set out the details, background and reactions to the agreement as well as explaining CAP development through the years to put the latest reforms in context.

Member States have a great deal of flexibility in implementing the reforms to tailor them to their farming systems. The UK Government lobbied for devolved administrations to also be afforded this flexibility across the EU. This means that England, Scotland, Wales and Northern Ireland are developing very different CAP reform packages, although they have some common elements. The Department of Agriculture and Rural Development in Northern Ireland has identified 80 decision points open to it which illustrates the potential for local decision-making.¹

All of the administrations have been running a number of consultations on implementation approaches since autumn 2013 and have been steadily announcing a range of decisions throughout 2014. Annex 1 lists a selection of the main announcements and consultations across the UK.

All EU Member States (and regions where appropriate) have to notify the European Commission of their decisions around how they will implement the CAP reforms by 1 August 2014.²

1.1 Main elements of the reforms

The main elements of the overall CAP reforms are:

- A **new Basic Payment Scheme** (a direct subsidy) which will represent 70% of a Member State's direct payments and replace the existing Single Payment Scheme.
- **Internal convergence:** any Member States (e.g. Scotland) who have payment allocations based on historic references (e.g. production) must move towards area payments per hectare.
- **Greening Payments:** 30% of the allocation to each holding will be linked to mandatory agricultural practices beneficial for the climate and the environment. These include requirements relating to designating land as Ecological Focus Areas, crop diversification and grassland (see section x)
- **Limiting claims:** A minimum of 5% reductions in basic payments over EURO 150,000 or a system of top-ups applied up to a maximum of 54 ha within a claim.
- **Young farmer** top ups of an additional 25% to be given to new entrants under 40 for the first 5 years.
- An option for Member States to use 10% of their allocation to provide additional annual payments under a **Small Farmers Scheme**

¹ Northern Ireland Assembly Research and Information Service Briefing Paper, *Current Status of CAP implementation in the UK and Ireland*, 17 April 2014

² This requirement is set out in a range of CAP related Commission regulations including 1307/2014, [REGULATION \(EU\) No 1307/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation \(EC\) No 637/2008 and Council Regulation \(EC\) No 73/2009](#), 17 December 2013

- **Areas with Natural Constraints (ANCs)/Less Favoured Areas (LFAs):** Member States or regions *may* grant an additional payment, up to 5% of their allocation, for areas with specific natural constraints based on 8 biophysical criteria (as defined under Rural Development rules).

1.1 UK budget allocations

Over 2014-2020 the UK is expected to receive €25.1 billion in direct payments and €2.6 billion in Pillar 2 (rural development) funds for the environment and rural development. This represents a reduction in real terms of 12.6% and 5.5% respectively compared with CAP payments to the UK in the period 2007-2013. The Scottish Rural Affairs Minister, Richard Lochhead described the budget negotiated by the UK Government as “atrocious”.³

Table 1: UK CAP allocations 2014-2020

	Pillar 1 / € million (approx non-inflation adjusted) (Direct subsidies)	% share	Pillar 2 / € million (approx non-inflation adjusted) (Environment and Rural Development)	% share
England	16,421	65.5	1,520	58.9
Northern Ireland	2,299	9.2	227	8.8
Scotland	4,096	16.3	478	18.5
Wales	2,245	8.96	355	13.7
Total allocation UK	25.1 billion		2.6 billion	

Note: Figures are in nominal terms (i.e. they have not been adjusted for inflation over the period)
Source: UK Government, November 2013.⁴

Defra has stated that although there will be less money overall under the new CAP schemes than previously, they will benefit the rural economy in England by over £15 billion. Most of this will be paid through the new Basic Payment Scheme and the young farmer payment and there will be a new Rural Development Programme investing at least £3.5 billion into environment and rural development schemes over the next 7 years.⁵

³ Scottish Government, Supporting Rural Scotland web page, [Rural Affairs Secretary announces CAP implementation plan](#), 11 June 2014

⁴ .GOV.UK Press Release, CAP allocations announced, 8 November 2013

⁵ Defra, [An introduction to the new CAP in England](#), April 2014

2 UK Government implementation (England)

2.1 Key implementation milestones

Table 1 sets out the key implementation milestones for England. The detail of the approach being taken is discussed in Section 2.2 onwards.

Defra has issued the following information to more than 110,000 existing customers of land-based schemes in England with implementation details:

- [An introduction to the new Common Agricultural Policy Schemes in England.](#), 14 April 2014
- [Greening: Work out what it means for you](#), June 2014
- A [timeline](#) to show the timing of the introduction of the various new schemes.

A clock logo is being used on all “CAP Reform countdown” branded information from the different agencies involved.

Table 1: Key implementation milestones (England)⁶

Activity	Timescale
Single Payment Scheme applications for 2014	1 May 2014 (The Rural Payments Agency has issued notices with the relevant information to farmers)
RPA launches new online payments system for 2015 claims	July 2014
New Basic Payment Scheme starts (replacing the Single Payment Scheme)	January 2015
New Environmental Land Management Scheme starts	1 January 2016 (Applications made in 2015)

3 Key issues

The UK Government has published a number of consultation and decision papers and summary of responses. These are all available at www.gov.uk/cap-reform and a selection are listed in Annex 1.

⁶ Information taken mainly from Defra, [Consultation on the implementation of CAP reform in England: Summary of responses and Government response](#), December 2013 and

Some of the key implementation decisions for England are summarised in Table 2 below. Further detail on some of these areas is provided in the rest of section 3.

Table 2: Key UK Government Implementation Decisions for England⁷

Reform	UK Government Decision
<p>Modulation</p> <p>Member States can modulate up to 15% between Pillars 1 and 2</p>	<p>Modulating 12% from Pillar 1 to Pillar 2 moving to a 15% transfer rate in 2018 and 2019, the final two years of the CAP period after a review in 2016.</p>
<p>Regional distribution of Pillar 1 Payments</p>	<p>There will be a shift of payments “uphill” to equalise the direct payment rates for the Severely Disadvantaged Areas (SDAs in non-moorland) and lowland regions.</p> <p>In April 2014, the Government confirmed that there will also be an increase in the moorland payment by the same cash amount as the SDA. It believes that this will keep average income in farms across the uplands at approximately their current levels relative to the rest of the economy.⁸</p>
<p>Reductions and Redistributive payments</p> <p>A minimum of 5% reductions in basic payments over EURO 150,000 is required or a system of top-ups applied up to a maximum of 54 ha within a claim.</p>	<p>The minimum 5% level of reductions to be applied on basic payments over €150,000. Government does not want to disincentivise expansion or encourage splitting to avoid payment reductions.</p> <p>Consultation responses were split between applying minimum 5% or making EURO 150,000 the most a farmer can receive.</p> <p>House of Commons EFRA Committee called for an increase in rate of reduction of direct payments for those receiving over EURO 300,000. Scotland and Wales <i>are</i> applying caps on payments beyond the minimum requirements</p>

⁷ Information taken mainly from: Defra, [Consultation on the implementation of CAP reform in England, summary of responses and government response on remaining issues](#), February 2014 and Defra, [Consultation on the implementation of CAP reform in England: Summary of responses and Government response](#), December 2013

⁸ Defra, [Consultation on the implementation of CAP reform in England: Government decision on the moorland rate](#), May 2014, para 6

<p>Greening⁹</p> <p>30% of the allocation to each holding will be linked to mandatory agricultural practices beneficial for the climate and the environment</p> <p>Member States can directly implement agreed greening measures or use an equivalent National Certification Scheme</p> <p>The measures include crop diversification requirements (3 crop rule)</p> <p>Ecological Focus Areas (EFA)</p> <p>EFA's are a key component of the greening measures. Farms with more than 15ha of arable land must maintain at least 5% of this area as EFA.</p> <p>Permanent Grassland</p> <p>If there is no more than 5% of conversion of permanent pasture to arable land at national level farm level restrictions on converting permanent pasture do not apply.</p>	<p>Direct implementation of the greening measures for simplicity and to avoid disallowance.</p> <p>By not having a separate national scheme the UK Government has to accept the greening criteria required that must be met for a farmer to get the 30% of the Direct Payment related to greening measures. This includes the '3 crop' requirement for holdings over 30ha which the Government has assessed to have a relatively small benefit.</p> <p>Initially said would select full list of options available for EFAs but have selected: Land lying fallow, buffer strips, catch and cover crops used to manage soil fertility and quality, Nitrogen Fixing Crops such as legumes (peas and beans) and hedgerows.</p> <p>UK Government is applying the national measure.</p> <p>Will not be designating any additional areas of environmentally sensitive grassland in which a no-plough rule shall apply. Consultation responses were unclear as to the value of such legislation when set alongside existing grassland protection</p>
<p>Small Farmers Scheme</p> <p>Member States can introduce an SFS as a simplified and alternative payment scheme with some exemptions from greening and cross-compliance.</p>	<p>UK Government (and devolved administrations) are not having an SFS. UK Government believes that all farmers receiving public money should meet cross-compliance requirements.</p>
<p>Active Farmer Test</p> <p>A 'negative list' of business activities that will not count for Direct Payments can be extended by Member States if they wish. They can apply a threshold for exemption from applying this list from £0-EURO 5,000</p>	<p>Not extending the list to keep the system as simple as possible recognising that the active farmer test is likely to be one of the more problematic parts of the new scheme to implement. Is adopting the EURO 5,000 threshold.</p>
<p>Eligibility</p> <p>Member States can define what eligible land is for Direct Payments and set a minimum claim size</p>	<p>Minimum claim size to be 5ha to achieve best value for money. Single Farm Payment Scheme entitlements to be rolled forward into the new scheme.</p>

⁹ Defra, [Consultation on the implementation of CAP reform in England: Government decisions on greening](#), June 2014

<p>Areas facing Natural Constraints</p> <p>Member States or regions may grant an additional payment, up to 5% of their allocation, for areas with specific natural constraints based on 8 biophysical criteria (as defined under Rural Development rules).</p> <p>The redefinition must be done by 2018</p>	<p>Not using the 'Areas facing Natural Constraints' designation at the present time for the purposes of targeting direct payments. Government views the existing arrangements for SDAs reflect the difficulties of upland farming.</p> <p>Has halted all mapping for now for this purpose and will reconsider in 2015 whether to resume it, when changes to some of the processes may have also been introduced by the European Commission.¹⁰</p>
<p>Coupled Support</p> <p>Can use a proportion of direct payment allocation to fund schemes where payment is linked to production in certain sectors.</p>	<p>Not reintroducing any system of coupled support; (However, UK Government allocation being used by Scotland)</p>
<p>Rural Development Programme (Pillar 2)¹¹</p>	<p>UK Government has set out overall objectives for the new Rural Development Programme for the EU Commission to consider.</p> <p>The New Environmental Land Management Scheme (NELMS) will replace the existing Environmental Stewardship schemes. New NELMS agreements will start in January 2016.</p>

¹⁰ Defra, *Implementation of CAP reform in England: Consultation*, October 2013, para 2,25

¹¹ Defra, *Summary of the latest position of the RDP programme and the measures that will be supported between 2014 and 2020*, 10 June 2014

Table 3: Commitments to future decisions and guidance (England)

CAP Element	Decision/guidance	Timescale
Rural Development Programme	Initial programme submitted to European Commission. Once agreed, further information to be provided on how the Government will invest, manage, monitor and evaluation the rural development schemes. Information on Local Enterprise Partnerships plans (in respect of rural economy part of RDP).	Autumn 2014 Summer 2014
Young farmers and new entrants	Clear guidance for young farmers and new entrants	Autumn 2014
Pillar 2 (rural development) agri-environment schemes	Information and guidance on the New Land Management Scheme (NELMs)	Winter 2014
Entitlements	Ability to look at land on-line and check that entitlements are accurate	Early 2015
Ecological Focus Areas (EFA)	Ministers have indicated that they will add to the list of EFA options open to farmers	"In future years as and when this becomes possible"
	Rural Payments Agency to issue further guidance for claiming for hedgerows	Unknown

3.1 Modulation

Under the latest CAP reforms (2014-2020), Member States (and devolved administrations) are allowed to transfer up to 15% of the Pillar 1 payments (direct payments) they receive from the EU to its Pillar 2 allocation (rural development e.g. agri-environment schemes, rural broadband). This movement of funds between budgets is known as modulation.

UK Government

The UK Government has notified the European Commission that for England, the Government will, in each year of the CAP period from 2014-2019 transfer 12% of the budget from Direct Payments (Pillar 1) to Rural Development (Pillar 2). The UK Government will review the position in 2016 with a

view to moving to a full 15% modulation (in 2018 and 2019) subject to sufficient demand for the schemes and to concluding an analysis of the competitiveness of British agriculture.¹²

That rate of transfer means a spend of over £3.5bn on the next Rural Development Programme, rising to around £3.65bn with an increased transfer rate of 15% from 2018. Almost £3.1bn will be spent on the environment over the life of the new programme, rising to nearly £3.2bn (the amount currently spent) if the transfer rate rises to 15% in the last two years. Currently, the UK Government plans to invest (with a 12% transfer rate) £177m through the Growth Programme and around £140m in farming/forestry competitiveness and around £140m in LEADER.

Stakeholder views

The UK Government indicated in the October 2013 consultation on CAP implementation, that its favoured option was to transfer the full, allowed 15% from Pillar 1 to Pillar 2 as the best use of tax payers' money i.e. to provide broader support to rural communities including farmers rather than just direct support to farmers. It also stated that "there is no evidence to suggest that voluntary modulation in the period 2008-2012 had an adverse impact on England's farming competitiveness".¹³ This intention was very much supported by a coalition of environmental organisations who urged other administrations to follow and to particularly support High Nature Value Farming (i.e. the biodiversity rich farming systems which are often still using labour intensive methods and farming very localised crops and livestock).¹⁴

However, this modulation rate was not popular with the NFU nor the House of Commons Environment, Food and Rural Affairs Committee (as expressed in its [November 2013 CAP implementation report](#)).¹⁵ Their shared concern was on the basis of competitiveness and a questioning of the need to transfer quite so much to support existing agri-environment schemes.

The NFU lobbied for a 9% modulation rate moving to 15% in a staged approach and the House of Commons Environment, Food and Rural Affairs Committee also called for a lower rate. However, the NFU did welcome the 12% compromise calling it a "sensible and pragmatic approach".¹⁶

Devolved administration variations

The devolved administrations have agreed different modulation rates. Northern Ireland is not transferring any funds from Pillar 1 to Pillar 2 despite the Executive proposing a 7% transfer. This is due to a procedural issue which was subject to judicial review and not an active agreement.¹⁷ Wales is transferring the full 15% and Scotland is transferring 9.5% from Pillar 1 to Pillar 2.

In Wales, both farming unions strongly opposed the 15% rate that was finally agreed arguing that it would disadvantage farmers. They argued for an initial lower rate with the option of a higher rate in 2017 if necessary.¹⁸

Other EU Member States have agreed lower modulation rates from Pillar 1 to Pillar 2: e.g. France at 3% and Germany 4.5%.¹⁹ However, this does not translate neatly into a competitive advantage

¹² [HC Deb 15 January 2014 c. 304 WH](#)

¹³ October 2013, para 6.52

¹⁴ Federation of Cumbria Commoners press release, [New Coalition to campaign for High Value Nature Farming](#), 6 June 2013

¹⁵ See Seventh report of the House of Commons Environment, Food and Rural Affairs Committee report, [Implementation of the Common Agricultural Policy in England 2014-2020](#), November 2013

¹⁶ NFU Online, [NFU Statement on CAP reform](#), 19 December 2013

¹⁷ See Agriculture and Rural Convention, [Northern Ireland Court rules zero percent modulation to Pillar II](#), 2 January 2014

¹⁸

because of the very different farming systems and terrains, other CAP reform decisions taken in the package and wider rural development policies and business and tax environments. E.g. funding for rural broadband and transport which also have impacts on competitiveness.

3.2 Greening requirements

The reforms introduce a new 'greening payment', incentivising practices that help the climate and environment, worth 30% of the total direct payments made to farmers. These payments will be linked to three "environmentally-friendly" farming practice criteria:²⁰

- **Crop diversification** (3 crop rule): Farmers must cultivate at least 2 crops when their arable land exceeds 10ha and at least 3 crops when their arable land exceeds 30 ha.
- **Permanent grassland**: The percentage of permanent grassland – compared to the agricultural area – in England must not fall by more than 5%. (The UK Government will release more details about this in the summer).
- **Ecological Focus Areas**: Farmers with more than 15 hectares of arable land must have 'Ecological Focus Areas (EFAs)'. These areas must be equivalent to at least 5% of their total arable land.

There are some exemptions:

- The greening requirements will not apply to units of a holding which are farmed organically
- Farmers who have more than 75% of the eligible agricultural area in permanent grassland, and where their arable area does not exceed 30 hectares, do not have to apply the Crop Diversification and Ecological Focus Area requirements (EFA - see below).
- Farmers who have more than 75% of their arable land is used for the production of grass (or other herbaceous forage) or laying fallow and the remaining arable land is less than 30ha do not have to apply the Crop Diversification and EFA requirements

Defra has provided information on how the greening requirements will operate in [Greening: Work out what it means for you](#), June 2014.

Member States can directly implement agreed greening measures or use an equivalent National Certification Scheme. The UK Government and the devolved administrations have all agreed to directly implement the greening measures rather than to have a separate scheme. However, Scotland is seeking to have some equivalent measures agreed by the European Commission (see section on Scotland below). The UK Government lobbied for the option of having such a scheme but concluded that it was best to implement the measures directly to avoid disallowance fines from the Commission for not implementing the requirements appropriately.

The NFU has a particular issue with the workability of the crop diversification requirement – the so called three crop rule (see section below). Meanwhile, environmental groups such as the RSPB

¹⁹ Based on initial announcements reported in [CAP reform announcement: What it means for farmers](#), *Farmers Guardian*, 21 December 2013

²⁰ Defra, ["CAP countdown: An introduction to the new Common Agricultural Policy schemes in England"](#), April 2014

remain disappointed that the greening requirements under Pillar 1 will not be more rigorous to get more value for the tax payer and are a ‘wasted opportunity’.²¹

Double funding

There cannot be any double funding (payment twice for the same things) of measures that can be used to both meet greening requirements in Pillar 1 and to meet Environmental Stewardship (ES) agreements or the new agreements under the New Environment Land Management Scheme (NELMS). Therefore when calculating these payments the Government has to deduct the amount necessary to exclude double funding.²²

An example would be using a buffer strip to meet the Ecological Focus Area (EFA) requirement to get the greening payment when it is already being paid for as part of the Environmental Stewardship payment. In such cases, the EU rules require that the ES payment is reduced but the greening payment is unaffected.

Defra has provided a [briefing](#) on how double funding rules will be applied.²³ The Government anticipates that only a small proportion of Entry Level Stewardship (ELS) agreements will have to have their payments adjusted to avoid Double Funding.²⁴

The Three Crop Rule²⁵

The three crop rule is part of the greening requirements that will form part of 30% of direct payments under the new CAP reforms for 2014-2020 which will be implemented from 1 January 2015.

This rule is a crop diversification requirement which is tiered according to the area of arable land on the holding:

Three-crop arable rule		
<10ha	Exempt	
10-30ha	At least two crops required	Main crop must not cover more than 75% of the arable land
30ha+	At least three crops required	Main crop must not cover more than 75% of the arable land and the two main crops together must not cover more than 95% of the arable land.
Based on area of arable land		

To provide additional flexibility in complying with the rules, the UK Government negotiated acceptance that winter and spring varieties will count as different crops for the purposes of these regulations. Farmers who consider themselves livestock producers may also be affected if they

²¹ See RSPB News, ‘*Poor deal for English farming; a ‘wasted opportunity’ for environment*, 10 June 2014

²² Defra, *Double funding and Environmental Stewardship agreements*, June 2014

²³ Ibid

²⁴ Defra, *Consultation on the implementation of CAP reform in England: Government decisions on greening*, June 2014, para 3

²⁵ Based on information from Defra, *Implementation of CAP reform in England: Consultation*, October 2013, para 3.3

grow a single arable crop such as maize or barley depending on their area of arable land and grassland.

Government position

In Defra's [October 2013 consultation](#) on CPA implementation, the government stated that it proposed to implement the rules exactly as set out in the regulation. Defra has acknowledged that although the environmental benefits to be derived from Crop Diversification are assessed to be relatively small, the possible equivalent alternatives to Crop Diversification are believed to be administratively difficult and costly for little or no additional benefit.²⁶ Defra's December 2013 summary of responses paper sums up the current position and future prospects:²⁷

3.20 The European Commission has made clear that it is not possible to replace the crop diversification requirement with an option to undertake an additional Ecological Focus Area requirement, a way forward favoured by the NFU and some individual respondents. Our conclusion is that, whilst there may be differing views over the number of farmers who may find this measure challenging, there is no alternative way forward.

An unpopular measure

The previous NFU President, Peter Kendall described the rule as "utter madness" and called for the European Commission to scrap the rule at the earliest opportunity - suggesting when it considers ecological focus areas in 2017. However, the NFU also acknowledges that no change will be forthcoming in the short term and farmers will need to prepare themselves.

The NFU has warned that the new rule will increase costs (in terms of growing different crops requiring new machinery), reduce efficiency, increase traffic on rural roads and in some cases could lead to negative environmental effects. There are also concerns that it will undermine contract farming arrangements and share farming agreements.²⁸

Farmers Weekly reported in March 2014 that some farmers are preparing to sacrifice support payments rather than to implement the three crop rule. Others may try and swap fields with neighbours to comply. *Farmers Weekly* noted that it is likely to cause particular problems for growers on simple two-crop rotations such as wheat and oilseed rape, and block croppers under contract farming agreements.²⁹

Defra's own consultation on CAP implementation found that the three crop rule attracted particular criticism because of the adverse impact on small farms and for those who used contractors. This measure was of most concern to arable farmers, particularly in relation to specialist croppers, those who grew continuous wheat and those who used contractors for all their arable operations.³⁰

²⁶ Defra, [Consultation on the implementation of CAP reform in England: Summary of responses and Government response](#), December 2013

²⁷ Defra, [Consultation on the implementation of CAP reform in England: Summary of responses and Government response](#), December 2013

²⁸ Farming online, [NFU President: Three crop rule is 'utter madness'](#), 11 February 2014

²⁹ *Farmers Weekly*, [Fed up farmers set to shun three crop rule](#), 13 March 2014

³⁰ Defra, [Consultation on the implementation of CAP reform in England: Summary of responses and Government response](#), December 2013, paras 3.11-3.20

The NFU and the Country Land and Business Association challenged Defra's assessment of the number of farms affected by the measure as an underestimation. However, Defra drew on the June 2010 agricultural census and believes that this provides cropping information for more farms than the membership of these organisations and is therefore more accurate.

The House of Commons Environment, Food and Rural Affairs Committee's Report on the Implementation of the Common Agricultural Policy in England 2014-2020 also reflected these views and invited the Government to seek a review of the EU requirement at the earliest opportunity.³¹

3.3 Ecological Focus Areas

The requirement and UK Government position

The CAP greening requirements require that where arable land on a holding exceeds 15ha, 5% of that land must be designated as an Ecological Focus Area (EFA). Member States are free to choose (from a list in the regulation) which land-use types they will permit for fulfilling the EFA requirement. These are listed below in Table 4.

The European Commission has undertaken to 'thoroughly evaluate the experience' with the implementation of the obligations relating to Ecological Focus Areas (EFA) as part of the 'greening' obligations, after the first year of application.

In particular, the Commission has said that it will:³²

ensure that the administrative burden for Member State authorities and producers arising from the application of EFA is kept to an absolute minimum and that procedures are simplified, including those on ditches. The situation in terms of a level playing field due to the implementation of EFA in different Member States will also be examined and addressed if necessary. Should the requirement to meet the EFA obligations result in a noticeable reduction of the production potential of the EU, the Commission will revise the relevant delegated act.

This review is seen by the NFU as a possible route to scrapping the 3 crop rule.

During the CAP reform negotiations, Defra argued against greening requirements forming part of the Basic Payment Scheme (Pillar 1). This was on the basis that the UK believes that environmental benefits are better delivered through the Rural Development Programme (Pillar 2).³³

The UK Government initially indicated that it was going to use the full list of options but announced in June 2014 only a selection would count towards the requirement.³⁴ Table xx compares the full list with the chosen options.

In the November 2013 CAP consultation, Defra explained that it was proposing to select the full list of options and asked for views on the most important options and which ones best promoted pollinators, if at all. The consultation stated:

³¹ See Seventh report of the House of Commons Environment, Food and Rural Affairs Committee report, *Implementation of the Common Agricultural Policy in England 2014-2020*, November 2013, para 42

³² European Commission News, *Commission declaration on Delegated Acts on CAP Reform*, 2 April 2014

³³ Defra, *CAP greening criteria announced*, 10 June 2014

³⁴ Defra, *Consultation on the implementation of CAP reform in England: Government decisions on greening*, June 2014

3.9 We believe that a selection of measures drawn from this list will allow English farmers to fulfil the EFA obligation without undermining the productivity of farm businesses. There will be some environmental benefits delivered through maintaining 5% of arable land in this way, albeit at relatively low level. However the EFAs could also form the basis for voluntary action through initiatives such as the Campaign for the Farmed Environment to build upon, and this in turn will form the basis for successor Pillar II agri-environment schemes..

In its [December 2013 summary of responses](#), Defra confirmed that it was selecting the full list of EFA options:

We are proposing therefore to make the selection of the full list of EFA options after further discussions with stakeholders and further analysis to determine whether advice and voluntary actions will provide sufficient benefits to allow Government to select a full list of EFA options and how pollinators could be included in that.

Defra Secretary of State, Owen Paterson has acknowledged that some farmers will be disappointed that the UK Government has not actually included more of the options available at EU level. However, he said that, given the lessons from the previous reform, he did not want to add extra complexity to the system.³⁵

Ministers have indicated that they will add to the list of EFA options open to farmers in future years as and when this becomes possible. There will also be further guidance from the Rural Payments Agency regarding claiming for hedges.

Table 4: Ecological Focus Area Options and English Selection

EFA option	UK Government Selection
Land lying fallow	Yes
Terraces	No
Landscape features	Yes - hedges
Buffer Strips	Yes
Supported agro-forestry	No
Uncultivated land along forest edge	No
Areas of short-rotation coppice	No
Afforested areas established under rural development schemes	No
Areas with catch crops or green cover <i>(Catch crops are crops used between principal crops when the land would normally lie fallow)</i>	Yes
Areas with nitrogen fixing crops	Yes <i>Allowing the widest possible range of crop types and not applying any restrictions on inputs (pesticides and fertilisers) in these areas</i>

³⁵ Paterson announces [CAP greening details for England](#), *Farmers Guardian*, 10 June 2014

Hedges

The Government has said that the decision to include hedges among the list of available EFA options “has been a very difficult one to take.” This is because they have tried to reconcile the conflicting pressures of a devising a simple and deliverable system for farmers which also optimises the environmental benefits of greening.³⁶

The Government acknowledges that the inclusion of hedges “has substantial implications” in terms of administrative burden”. This is because of the need to validate all claims and ultimately to map digitally every hedge in the country. The Government notes that this will have implications for the timetable for processing claims from those claimants who wish to count hedges towards their EFA requirement. Defra has warned that farmers taking this option may be requested to submit claims earlier and may need to expect payments later so that the Rural Payments Agency (RPA) can verify the claims and avoid financial penalties for farmers and to the UK Government from the European Commission.³⁷

Stakeholder reaction

The NFU is supportive that Ecological Focus Areas will include hedges and limited landscape features but wants to see more landscape features included from 2016 onwards. The NFU has also welcomed the fact that that planting nitrogen fixing crops such as peas and beans will count towards the greening measures.³⁸

3.4 Cross compliance

To receive CAP payments, farmers also have to adhere to EU-based ‘cross compliance’ environmental regulations. This system is already in place and will continue. However, in order to reduce the burden on farmers, Defra has cut the number of requirements to keep land in good agricultural and environmental condition (GAECs) from 17 to 11.³⁹ This includes removing the mandatory requirement for record-keeping relating to soils – the soil protection review. However, GAECs on water, boundaries, public rights of way, trees, Sites of Special Scientific Interest (SSSIs) and scheduled monuments are being retained and rationalised.

Disappointed with the greening requirements of the CAP reforms, the RSPB has called for the Government to at least ensure that the remaining rules and regulations linked to subsidy payments provide some level of environmental protection.⁴⁰ Wildlife and Countryside Link has previously expressed some concerns that the gaps created by the new reforms in relation to cross-compliance might not be sufficiently covered by other greening measures in terms of protection for priority habitats.⁴¹

3.5 Active Farmer Test

The CAP reforms introduce a new ‘active farmer test’ i.e. who can qualify as a farmer for CAP payments.

The test is in two parts:

³⁶ Decisions on greening requirements, para 4

³⁷ Defra Press Release, [CAP greening criteria announced](#), 10 June 2014

³⁸ NFU online, [CAP greening decision is sensible](#), 10 June 2014

³⁹ Defra Press Release, [CAP greening criteria announced](#), 10 June 2014

⁴⁰ RSPB News, [‘Poor deal’ for English farming; a ‘wasted opportunity’ for environment](#), 10 June 2014

⁴¹ [Wildlife and Countryside Link response to informal cross compliance consultation](#), March 2014

- In relation to the nature of the land –in particular, focusing on land which is ‘naturally kept’ and describing the minimum activity that has to be undertaken to qualify for payments
- A ‘negative list’ of activities – if any businesses operate any of the activities included this prevents direct payments and some Rural Development grants being paid. The regulation specifies six activities in the negative list, but the UK has the option to add further activities.

The list of excluded activities includes airports, railway services and permanent sports and recreation grounds.

Defra Minister, Owen Paterson has said that the UK successfully lobbied to "reduce dramatically" the complexity of the original "horrendously complicated" proposals which would have required detailed information on each farm's income to prove that agriculture was the main source of profit. The UK Government feels that the short list of business types that will now be submitted to this test is far more proportionate.⁴²

The Government’s November 2013 consultation sought views on whether this negative list should be extended. Overall there was support (including the NFU, RSPB and Federation of Small Businesses) for not extending the list (368 no to 263 yes) mainly on the basis that this would further complicate CAP bureaucracy.

The Government decided not to extend the list to keep the system as simple as possible recognising that the active farmer test is likely to be one of the “more problematic parts of the new scheme to implement”.

3.6 Rural Development (Pillar 2)

Member States can choose from a range of measures in designing their domestic Rural Development Programmes. Measures are no longer classified at EU level into ‘axes’ with associated minimum spending requirements. The only requirements are that they must spend at least 30% on measures to protect and enhance the environment and at least 5% of their EU funds through the local delivery mechanism known as the **LEADER** approach.⁴³

Member States have to achieve targets set against six broad “priorities” and their more detailed “focus” areas (sub priorities) on the basis of sound analysis.⁴⁴

The six priorities are:⁴⁵

1. Fostering knowledge transfer and innovation in agriculture, forestry and rural areas.
2. Enhancing farm viability and competitiveness of all types of agriculture in all regions and promoting innovative farm technologies and sustainable management of forests.
3. Promoting food chain organisation, including processing and marketing of agricultural products, animal welfare and risk management in agriculture.
4. Restoring, preserving and enhancing ecosystems related to agriculture and forestry.

⁴² Letter from Rt Hon Owen Paterson MP, Secretary of State for Environment, Food and Rural Affairs to MPs and Peers, 4 July 2013

⁴³ Defra, *Implementation of CAP reform in England: Consultation paper*, October 2013

⁴⁴ European Commission, *MEMO/13/937 25/10/2013 CAP reform - an explanation of the main elements*, 25 October 2013, para 5.9

⁴⁵ *Ibid*, para 5.20

5. Promoting resource efficiency and supporting the shift towards a low carbon and climate resilient economy in agriculture, food and forestry sectors.

6. Promoting social inclusion, poverty reduction and economic development in rural areas.

UK Government plans

The UK Government submitted its plans for its Rural Development Programme to the European Commission in June 2014 and published a [Summary of the latest position of the RDP programme and the measures that will be supported between 2014 and 2020](#) on 10 June 2014. The European Commission is expected to take around six months to consider and agree the Programme.

The new Rural Development Fund in England will start in 2015 and the Government will make more information available in autumn 2014. This will set out the details of how the Government will invest, manage, monitor and evaluate the rural development schemes. It is currently finalising the schemes that will become available and developing guidance and application processes.

The proposed new programme will have a particular emphasis on the environment, growth and productivity and innovation and skills. It has three key themes:⁴⁶

- **Managing the environment**

New Environment Land Management Scheme (NELMS) – see section below.

£3.1bn available between 2014-2020 (including £2.2bn already allocated to schemes which will expire in this period).

- **Increasing farming and forestry productivity**

Around £140m for to assist innovation, use of new technology, skills and training and collaboration in the sector and between land-based sectors

- **Growing the rural economy**

Local Enterprise Partnerships will have £177 million to spend on rural priorities including supporting small/micro businesses, invest in broadband and renewable energy and promote rural tourism

In its [October 2013 consultation](#) on CAP implementation, the UK Government indicated where it did not see a rationale for intervention, either because the areas offered very poor value for money or would be better supported through the market.

- quality schemes for agricultural products and foodstuffs;
- income stabilisation tools;
- support for crop, animal and plant insurance;
- mutual funds for adverse events, animal and plant diseases, pest infestations and environmental incidents.⁴⁷

⁴⁶ Defra, *Summary of the latest position of the RDP programme and the measures that will be supported between 2014 and 2020*, 10 June 2014

⁴⁷ Defra, *Implementation of CAP reform in England: Consultation paper*, October 2013

New Environmental Land Management Scheme (NELMS)

The New Environmental Land Management Scheme (NELMS) will replace existing Environmental Stewardship schemes in England on 1 January 2015. The previous Rural Development Programme ended on 31 December 2013 with the last Environmental Stewardship Agreements started on 1 December 2013. 2014 is therefore a transitional year to NELMS

New agreements under NELMS will start from 1 January 2016 although payments for some woodland capital items will be available during 2015. The transitional arrangements aim to reflect the move towards a more targeted funding approach that avoids building up excessive commitments in the new programme. Natural England has a [transition](#) webpage providing all of the latest updates on the 2013/2014 transition year.

The Government has decided to increase the percentage of Pillar 2 funding which is spent on agri-environment schemes from 83% to 87% estimating an overall spend between 2014 and 2020 of £3.1 billion. However, £2.2bn of that (71%) is already accounted for by current agreements which do not expire until part way through, or in some cases beyond, the next rural development programme.⁴⁸

Key features of NELMS

The Government set out some details about the structure of the scheme in February 2014 with more detailed proposals emerging in June 2014.⁴⁹ The new scheme will be more targeted and focused than previous agri-environment schemes and will prescribe particular options to applicants according to targeted maps to ensure that Government environmental objectives, particularly relating to biodiversity, are met and that synergies in areas and between options are optimised where possible. For example, the UK Government has said that overall biodiversity should be the priority for the scheme and it will seek to maximise opportunities to deliver biodiversity, water quality and flooding benefits together.⁵⁰ The need to use the CAP system to help prevent future floods has been particularly highlighted by the RSPB who have made a number of suggestions about how this might be achieved.⁵¹

The new agri-environment agreements made with farmers will be for at least 5-7 years (as required by the European Commission). Any changes to these agreements will have to be within the set contract terms.

The NELMS scheme aims to combine the best parts of the existing Environmental Stewardship and English Woodland Grant schemes. It will make funding available for farmers, foresters or other land managers, in order to restore, conserve and enhance the natural environment.⁵²

In a press release, farming Minister George Eustace highlighted the following about NELMS:⁵³

We have a great track record in countryside stewardship schemes and we want to build on what has been started. The new scheme will prioritise promoting biodiversity and will be tailored to fit local needs. It will be more targeted so we can deliver wildlife corridors but there will also be grants available to all farmers.

⁴⁸ Defra, [Consultation on the implementation of CAP reform in England, summary of responses and government response on remaining issues](#), February 2014, p.17

⁴⁹ Defra [Consultation on the implementation of CAP reform in England, summary of responses and government response on remaining issues](#), February 2014

⁵⁰ Defra, [Consultation on the implementation of CAP reform in England, summary of responses and government response on remaining issues](#), February 2014, para 3.44

⁵¹ See RSPB [Martin Harper's Blog, Preventing future floods: The role of land management and the CAP](#), 2 February 2014

⁵² Defra Press release, ["New environmental scheme for farmers to prioritise biodiversity"](#), 26 February 2014

⁵³ Defra Press Release, [New environmental scheme for farmers to prioritise biodiversity](#), 26 February 2014

From 2016 the NELMS will be targeted so that farmers can deliver environmental priorities specifically related to their local area, focussing particularly on increasing biodiversity, helping wildlife and improving water quality. For example, if one area is home to rare farmland birds, farmers will be reimbursed for enhancing this habitat. If, in another area, agricultural pollution has affected local rivers, farmers will be able to apply for funding to reduce soil erosion and run-off from their fields.

The UK Government has agreed, that despite budget constraints, the new scheme should be broad in scope (as currently) contributing to the delivery of outcomes on: biodiversity, soil and water issues, the historic environment, landscape, genetic conservation and educational access. It will also retain the general aim of helping the natural environment to adapt to climate change by, for example, reducing greenhouse gas emissions as well as providing and protecting carbon storage.

The directed options will be the key means by which the Government achieves a more co-ordinated impact in terms of ecological areas etc rather than encouraging farmers themselves to co-ordinate their schemes. However, there will be competitive access to a facilitation fund for a number of specific projects which encourage co-operation for groups or clusters of farmers, land managers and other local partners in areas that are consistent with the targeting maps being drawn up.

Structure

- NELMS will be a universal, single, scheme open to farmers, foresters and other land managers whether they use conventional or organic methods.
- The scheme will be easier to apply for than the current schemes combining the best parts of the existing Environmental Stewardship (ES) and English Woodland Grant schemes (EWGS).
- There will be only one multi-annual agreement per holding with contracts between the individual and the competent authority. This contract will determine obligations, responsibilities, payments and penalties under the inspection regime.
- There will be a single menu of multi-annual and capital items

Entry requirements

- The scheme cannot pay for activities to meet regulatory requirements such as on pesticides or fertilisers (the legal baseline) or cross compliance. The Government believes that there is merit in setting a clear and common environmental baseline for scheme entry, providing that this does not act as a significant disincentive to applicants by requiring them to undertake works for which they are not compensated.
- Defra will be working with stakeholders to determine the appropriate elements that should be included in this baseline prior to EU Commission approval of the Rural Development Programme.⁵⁴

The new scheme will offer:

a) site specific agreements similar to the current Higher Level Stewardship (HLS) scheme

⁵⁴ Defra, *Consultation on the implementation of CAP reform in England, summary of responses and government response on remaining issues*, February 2014, p.24

This would be known as a priority sites offer (the “upper tier”). This would effectively be by invitation following assessment of expiring HLS and new candidate sites because of the bespoke and complex nature of these types of agreements. There would be no presumption that all current agreement holders would get agreements. Selection will reflect past performance and new policy priorities for the new scheme.

b) area specific agreements aimed at targeted improvements in the wider countryside

The “mid-tier” offer would identify areas presenting the best opportunities to deliver the scheme’s objectives then scoring applications to secure the best quality “offers”. The Government is giving further consideration to how best any group applications could be positively recognised in the selection criteria for applicants.⁵⁵

c) multi-annual agreements, normally for 5 years – but these could be longer if benefits take longer to achieve

EU rules state that agreements should generally be undertaken for a period of five to seven years. However, where necessary in order to achieve or maintain the environmental benefits sought, Member States may however determine a longer period for particular types of agreements and extend them annually or renew as shorter length agreements.

The Government has proposed an option of annual extensions for a further two years to maximise flexibility and to help manage transition to the next programme. The Government will continue to offer 10 year agreements as currently with a 5 year break clause which can be implemented by either party without financial penalty.

d) a choice of management options, capital items and advisory support (depending on the agreement type)

e) annual small-scale grants for certain activities – such as hedgerow laying, coppicing and gapping up, or stone wall restoration

The Government has said that it is still looking at how the Catchment Sensitive Farming (CSF) scheme will fit into the new Programme but expects the scheme to provide access advice and capital grants to reduce ‘diffuse pollution’ and improve water quality.

Stakeholder response so far

Although critical about the overall CAP reforms negotiated, the RSPB is “pretty pleased” about what is being proposed in terms of NELMS so far and has said that “First impressions are that this new

⁵⁵ Defra, [Consultation on the implementation of CAP reform in England, summary of responses and government response on remaining issues](#), February 2014, para 3.52

scheme is good news for wildlife and for farmers. The Defra team have done a good job".⁵⁶ However, the RSPB does highlight that it is not clear how Defra will allocate funding among the range of priorities it outlines for the scheme below the overall priority of biodiversity. It also expresses hopes that farmers and land managers will actually go for the new scheme and that the NFU will get behind the new scheme.

The NFU has been involved in the development of the scheme and has raised practical questions of implementation and clarification with Defra.

4 Devolved Administrations

4.1 Northern Ireland

Agriculture and Rural Development Minister, Michelle O'Neill made her announcements on the remaining CAP implementation issues for Northern Ireland on 26 June 2014.⁵⁷ She highlighted how there had been diverse views on some of these issues so compromise had been needed. The Executive had been particularly conscious that having fought for CAP decisions to be taken locally, it was imperative that they agreed the final solutions in time to notify the European Commission or have the default position imposed on them.

The key implementation decisions made in Northern Ireland are summarised below:⁵⁸

- Transfer between Pillars – Pillar 1 to Pillar 2 0% for 2014-19 with potential to revisit before 1st August 2017. No Pillar 2 to Pillar 1 transfer
- 7 year transition period
- Not utilising sub regions (only UK region to have only one payment region)
- Voluntary coupled support ruled out for now (with implications for the beef sector as Scotland will have coupled support for the beef sector)
- Regional reserve – will not be used to allocate entitlements to farmers in order to prevent land from being abandoned or to allocate entitlements to farmers as compensation for specific disadvantage
- Minimum claim size – 3 hectares
- No reduction coefficient will be applied for establishing permanent grassland entitlements
- Entitlement transfer – no siphon will be applied
- All existing entitlements cancelled at end of 2014 and reallocated based on area of eligible land declared in 2015

⁵⁶ RSPB, Martin Harper's blog (Martin in Head of Conservation), *The NELMS-putting life back in the countryside?*, 27 February 2014

⁵⁷ Northern Ireland Executive press release, *O'Neil delivers positive result on CAP*, 26 June 2014

⁵⁸ Northern Ireland Assembly Research and Information Service Briefing Paper, *Current Status of CAP implementation in the UK and Ireland*, 17 April 2014

- Entitlements held in 2014 will be used as basis for calculating claimant's initial Basic Payment per hectare
- Those who never held entitlements will be allocated BPS entitlements if they can provide evidence of production activity on 15th May 2013
- Active farmers – no additions to the negative list and will not use option to exclude claimants with insignificant agri-activity
- No Small Farmer Scheme
- Redistributive payment will not be used

Greening

- Equivalence option will not be used, permanent grassland will be monitored at regional level
- Ploughing/conversion ban will not be extended beyond areas of permanent grassland within areas designated under the Habitats and Birds Directives
- Confirmed EFA eligible features – land lying fallow, landscape features required to be maintained under cross compliance, areas of agro forestry, areas with short rotation coppice with no use of mineral fertiliser and/or plant protection products, afforested areas which were used to claim SFP in 2008, and areas with nitrogen fixing crops
- Confirmed EFA ineligible features – terraces, buffer strips, strips of eligible hectares along forest edges and areas with catch crops or green cover
- EFA conversion matrix will be used
- Groups of farmers will not be allowed to use collective arrangements for up to 50% of EFA obligation
- Option to implement up to 50% of percentage points of the EFA at regional level will not be used

Rural Development

- NI Executive has committed to match fund the European element of the 2014-2020 Rural Development Programme

Stakeholder reaction

The Ulster Farmer's Union has said that farmers are relieved that an agreement has been reached even if the final positions on regionalisation and transition were not exactly what the Union was hoping for. A seven year transition period to area based payments means that Northern Ireland has the longest transition period of all of the UK regions which gives farmers time to adapt their businesses. However, the UFU remains concerned about Northern Ireland's beef farmers in disadvantaged areas who will be the hardest hit through a combination of redistribution under a single region and also coming out of the Areas of Natural Constraints scheme. The UFU is continuing to press for targeted support for this 'vulnerable' sector.⁵⁹

The UFU has also raised concerns about the position of Northern Ireland in relation to Scotland:

⁵⁹ UFU, [Farmers breathe a sigh of relief as final elements of CAP deal agreed](#), 26 June 2014

“Wider UK convergence of direct payments, especially the ‘Scottish Factor’, still remains a threat to Northern Ireland and it is no secret that Scotland is still actively pursuing a review of UK CAP budget allocations. Since we are the only part of the UK to opt for a single region under the CAP and have an average direct payment well above the UK average we are an easy target for Scotland. It will be up to the Agriculture Minister to ensure that she defends our historical CAP allocation and prevents Northern Ireland farmers from losing €100million annually as Scotland look for a redistribution of CAP monies across the UK.”⁶⁰

Environmental groups are clearly disappointed about the 0% modulation rate arising from political disagreements. Northern Ireland Environment Link has warned that this will have serious consequences for Northern Ireland’s environment and its ability to meet all its national and international requirements.⁶¹

4.2 Scotland

On 11 June 2014, Rural Affairs Minister Richard Lochhead set out the package for Scottish farmers.⁶² The overall package aims to target active producers and ‘freeze out’ so called slipper farmers i.e. those that are not genuinely active farmers.

One of the biggest CAP decisions facing the Minister has been how best to support active farmers in rough grazing regions.⁶³ This is because the productivity of rough grazing land varies considerable across Scotland and a general payment for rough grazing that does not account for this could risk overcompensating farmers whose land can only support low stocking densities and reduce the payments of farmers with better rough grazing land with drastic impacts. The solution proposed is to have a specific, third payment region for the poorest quality rough grazing with some coupled support.

The Minister has said that this is a “five-pronged assault” on inactivity with the Scottish Clause (land with no farming activity on it will get no Pillar 1 payments), the negative list (sporting estates added to active farmer test), a third region, more coupled support (13% allowed for Scotland using some of the UK Government’s unused allowance) and capping.⁶⁴

The Minister accepted that for some farmers there would be “rough justice” but said he was confident that “this is the best possible package in the circumstances”. He also described the package as the most “radical redistribution of CAP payments ever.”⁶⁵

The implementation decisions for Scotland are summarised below:⁶⁶

- Transfer between Pillars – P1>P2 9.5% 2015-20, P2>P1 zero
- No plans for an ‘overnight transition’ from historical to area-based payments. Internal Convergence will take place over the 2015-2019 years (in recognition of the level of reduction in payments many intensive farmers face)

⁶⁰ Ibid

⁶¹ Northern Ireland Environment Link, *Consultation on policy options arising from the report of the Common Agricultural Policy (Pillar 1 Direct Payments): Response from Northern Ireland Environment Link*, 17 January 2014

⁶² Scottish Government, Supporting Rural Scotland web page, *Rural Affairs Secretary announces CAP implementation plan*, 11 June 2014

⁶³ Paterson gives green light to extra Scottish coupling allowance, *Farmers Guardian*, 12 May 2014

⁶⁴ Scottish Government, *CAP reform: Cabinet Secretary Parliamentary Statement*, 11 June 2014

⁶⁵ Ibid

⁶⁶ Drawn from a range of sources including: Scottish Government, *The new CAP in Scotland: Direct Payments Guide*, 19 June 2014

- Minimum claim size at 3ha
- Strict activity requirements that farmers will have to meet to be eligible for direct payments. This will remove land with no agricultural activity from the payment regime, which is currently estimated at 600,000 hectares
- Part way through the transition period to area based payments, basic direct farm payments will be capped at around £400,000 per year after labour costs. The top 5 recipients in Scotland in the current CAP receive between them over £7.5 million. The new CAP package is expected to reduce that by nearly two thirds or more if they do not meet the activity tests.
- Sporting estates will be added to the negative list to exclude them from receiving direct farm payments unless they can prove they are a genuine farm business. *(These measures will ensure no payment on land with no farming activity, currently estimated at 600,000 ha)*
- The creation of three payment regions and a coupled support scheme for sheep for producers in the third region
- A five year transition between 2015 and 2019 for the move from historic to area-based farm payments, which is required by Europe. New entrants, who have previously been excluded from receiving direct farm payments, will get the regional average from day one of the new CAP
- A new £45 million three year beef improvement scheme to support genetics, performance and reduce the carbon footprint of the beef herd. This will be developed based on recommendations from the Beef 2020 group. This is in addition to the 8% coupled support scheme for beef which is being retained. Beef producers on the islands will be eligible for higher coupled support payments than mainland producers, with an uplift of around €65 per calf.
- A package of greening measures including some standard and some equivalent measures tailored to Scottish needs. Under the crop diversification measure farmers will be allowed to choose between Europe's standard requirement and an equivalent 'winter soil cover' requirement or an equivalent 'catch crops' requirement.⁶⁷
- No small farmer scheme

Rural Development

- The rural development programme will deliver key priorities of sustainable economic growth, protecting the environment and tackling climate change, and vibrant rural communities.
- Confirmation that rural development funding for agri-environment and climate change schemes will increase by more than £10 million per year with maintained budgets for the Less Favoured Areas Support Scheme (LFASS), forestry and LEADER
- A separate capital grant scheme for crofters in the rural development programme will be reinstated
- Farm carbon audits under Pillar 2 funding

⁶⁷ Scottish Government, *CAP reform: Cabinet Secretary Parliamentary Statement*, 11 June 2014

Stakeholder reactions

NFU Scotland welcomed the June 2014 announcement suggesting that the Scottish Government had pushed the rules to the limit” and giving the Government credit for “securing additional tools from Europe to produce a package which limits the gaps in support”.⁶⁸

One of the key issues in the Scottish discussions on implementation has been the speed of transition to area based payments from historic based payments. New entrants want to see a quick transition whilst those likely to see their payments reduced lobbied for more time to adapt.

Environmental groups have been disappointed with the 9.5% modulation rate from Pillar 1 to Pillar 2. The Game and Wildlife Trust and RSPB Scotland had pushed for the full 15% transfer.⁶⁹

4.3 Wales

The key implementation decisions made in Wales are summarised below:⁷⁰

- Transfer between Pillars: Pillar 1 to Pillar 2 15%. No transfer from Pillar 2 to Pillar 1
- Capping – progressive capping applied above €150,000 – payments between €150,000 and €200,000 capped by 15%, payments between €200,000 and €250,000 capped by 30%, payments between €250,000 and €300,000 capped by 55% and payments over €300,000 capped at 100%.
- Minimum claim size: 5 hectares
- Entitlements: will be based on receipt of an SPS payment in 2013 or proof of farming in 2013
- From January 2015, farmers who are unable to prove that a third of their receipts come from a farming activity will not get a direct payment.
- A technical review process for farmers who believe that their land has been incorrectly classified within the new payment region classifications
- 3 sub regions: moorland, SDA and DA/lowland combined
- Internal convergence: a 5 year transition to 100% area based by 2019
- Active farmer: no additions to negative list
- Greening: will be implementing default greening requirements
- EFA: Will allow options of: stone walls, afforested land, short rotation coppice, fallow land and nitrogen fixing crops
- No Small Farmer Scheme

⁶⁸ [Smooth transition for Scottish farmers as new CAP unveiled](#), *Farmers Guardian*, 11 June 2014 and NFU Scotland, [CAP statement signals way ahead for support](#), 11 June 2014

⁶⁹ Game and Wildlife trust, [GWT responds to CAP consultation on Pillar on Pillar transfer](#), 7 March 2014

⁷⁰ Welsh Government, Written Statement: Further decisions on Pillar 1 of the Common Agricultural Policy, 1 July 2014

- Will have a Young Farmers Scheme
- Coupled support – no schemes
- Areas of Natural Constraint – will not be a Pillar 1 scheme
- In a statement on 17 June 2014, Natural Resources and Food Minister Alun Davies outlined plans for Glastir, the agri-environment part of the Welsh Rural Development Programme. He said that the proposals would protect Wales' natural resources whilst also supporting green growth and building resilience within Welsh agriculture and forestry industries.

Stakeholder reaction

Environmental groups in Wales are very happy with the full 15% modulation rate from Pillar 1 to Pillar 2. Farmers are less happy with this and therefore feel that the Pillar 2 Rural Development Programme needs to deliver clear benefits for them in terms of supporting innovation and efficiency.

NFU Cymru has said that the Welsh Government's approach to greening measures (announced on 1 July 2014) are sensible and pragmatic.⁷¹ They are very similar to the UK Government's approach. NFU Cymru is particularly pleased that stone walls and hedges can be counted for the Ecological Focus Area requirement reducing the amount of land that farmers will need to take out of production. However, they are disappointed that unlike in England, catch and cover crops will not be included.

The Country Landowners Association (CLA) Cymru has remaining concerns that the application of the active farmer test will penalise farmers who have diversified.⁷² The CLA Cymru has also expressed disappointment about the Welsh Government's decision to go further than the minimum EU requirements for capping payments which they see as a policy opposing the consolidation of large farms or economies of scale. In reality the cap is largely symbolic for payments over €150,000. Payment data from 2012 (provided by the Welsh Government to the Welsh Assembly Research Service) shows that only 54 farmers received payments in the range €150-300,000 and just 5 got more than €300,000. Together these 59 are only 0.36% of 16,762 claimants.

5 Next Steps

Preparations and new Commission thinking for the next CAP reform could start around 2016, if previous timescales are repeated for the next reforms. The UK Government has already said that beyond January 2015 it will be looking ahead to the next round of CAP negotiations; in particular what can be done to ensure a better set of Commission proposals for the next CAP regulations post-2020.⁷³

A mid-term review/health check of the reforms at EU level may occur but the likelihood of that, and appetite for it, will only become clearer when the new reforms are fully implemented and payments have started to be made. The final section of [Library Research Paper 13/64 CAP Reform 2014-2020: EU Agreement and Implementation in the UK and in Ireland, November 2013](#) highlights some potential, key issues for the next reform round.

⁷¹ NFU Cymru News Release, PR167, *NFU Cymru describes Welsh Government's approach to greening measures as 'sensible and pragmatic'*, 3 July 2014

⁷² CLA Cymru, *CLA Cymru disappointed over CAP announcement*, 20 January 2014

⁷³ Memorandum from the Department of Environment, Food and Rural Affairs to the House of Commons Food and Rural Affairs Committee inquiry into implementation of the Common Agricultural Policy 2014-2020, 18 October 2013

At EU level, the Commission has already built in a review of the Ecological Focus Areas (EFAs) in 2017.

An outside influence which may affect UK decision-making in the next round is the outcome of the Scottish independence vote. The low level of Scottish direct payments currently qualifies the UK for an 'uplift' in Pillar 1 payments. This was a source of contention when the Scottish Government did not get the allocation of the overall UK CAP budget that it wanted when the UK Government decided to keep intra-UK allocations to the proportions under the previous round. In announcing the latest CAP implementation decisions for Scotland, Rural Affairs Minister Richard Lochhead raised the issue and highlighted the importance of Scotland being an independent country in the next round of CAP talks to negotiate an uplift in the country's rural development budget.⁷⁴

6 Annex 1

6.1 Key documents and consultations

A selection of consultation and decision papers published by the UK Government and devolved administrations to-date.

UK Government

All of the CAP reform documents for the UK Government can be found at www.gov.uk/cap-reform

- Defra, [Implementation of CAP reform in England: Consultation paper](#), 31 October 2013
- Defra, [Consultation on the implementation of CAP reform in England: Summary of responses and Government response](#), December 2013
- Defra, Consultation, 26 February 2014
- Defra, [Consultation on the implementation of CAP reform in England: Government decision on the moorland rate](#), May 2014
- Defra, [Consultation on the implementation of CAP reform in England: Government decisions on greening](#), 6 June 2014

Northern Ireland

All CAP reform consultations and decisions are available on the Department of Agriculture and Rural Development website at:

<http://www.dardni.gov.uk/index/grants-and-funding/common-agricultural-policy-reform.htm>

See for example:

- [CAP Pillar 1 Direct Payments: Decisions to date](#), 26 June 2014

⁷⁴ Scottish Government, Supporting Rural Scotland web page, [Rural Affairs Secretary announces CAP implementation plan](#), 11 June 2014

Scotland

The Scottish Government website page [Common Agricultural Policy](#) has links to all of the relevant consultations and implementation decision statements. These include:

- Scottish Government, [Report on results from the Scottish Government consultation on future CAP direct payments in Scotland](#), 11 June 2014
- Scottish Government, [Analysis of Responses to the Second Consultation on the Scottish Rural Development Programme 2014-2020 Summary Report](#), 11 June 2014
- Scottish Government, [Annex Report - Analysis of Responses to the Second Consultation on the Scotland Rural Development Programme](#) 11 June 2014

Wales

In Wales, the Welsh Government held an [initial consultation](#) on the Rural Development Plan from February to May 2013. It then published a [further consultation paper](#) on direct payments in July 2013, which set out the decisions it proposed to take to implement CAP reform. This consultation ran until 30 November 2013. It has since published:

- Welsh Government, [Common Agricultural Policy Reform - Direct Payments to Farmers: Decisions](#), January 2014
- Welsh Government, [Proposals for the Galstir scheme part of the rural Development Programme for Wales 2014-2020](#), January 2014
- Welsh Government, [Wales Rural Development Programme 2014-2020: Final Proposals](#), 17 February 2014
- [Written Statement: Further decisions on Pillar 1 of the Common Agricultural Policy](#), 1 July 2014