



Northern Ireland
Assembly

Committee for Agriculture and Rural
Development

OFFICIAL REPORT (Hansard)

Common Agricultural Policy Basic Payment
and Support Schemes Regulations (Northern
Ireland) 2015: DARD Officials

24 March 2015

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr William Irwin (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Sydney Anderson
Mr Thomas Buchanan
Mrs Jo-Anne Dobson
Mr Tom Elliott
Mr Kieran McCarthy
Mr Oliver McMullan
Mr Edwin Poots

Witnesses:

Mr Joseph Kerr	Department of Agriculture and Rural Development
Mr David Lynch	Department of Agriculture and Rural Development
Mr Mark McLean	Department of Agriculture and Rural Development

The Chairperson (Mr Irwin): I welcome Joseph Kerr, grade 7, head of resource management services; Mark McLean, grade 7, principal agricultural economist, policy development branch; and David Lynch, deputy principal, programme planning and management branch. You are very welcome. I ask you to take up to 10 minutes to address the Committee, and, after that, we will have questions.

Mr Joseph Kerr (Department of Agriculture and Rural Development): Thank you for allowing the Department to present the Common Agricultural Policy Basic Payment and Support Schemes Regulations 2015. The regulations are technical in nature and provide legal certainty on policy decisions, which have been subject to consultation, relating to the basic payment and support schemes to be introduced this year.

The regulations confirm that Northern Ireland will be treated as a single region for the purposes of the schemes. The notification date for the transfer of entitlements is 2 May each year. They also confirm how the Department will allocate and calculate entitlements. They set out how the negative list will be implemented. They set the minimum area on which a claim can be made as three hectares and that the land must be at the applicant's disposal on 15 May to be eligible to claim. They set the maximum amount that an applicant can receive under the basic payment scheme at €150,000. They also confirm the species that will be considered for short rotational coppice and that the harvest cycle is five years. The top-up grant to be paid to young farmers is confirmed at 25% of the average, and there is a limit of 90 hectares on which that payment will be made. They also set out the greening rules as regards the calculation of the greening payment, the crop diversification period, the definition of environmentally sensitive pasture and features that can be used in ecological focused areas. They

also revoke previous regulations for the single farm payment, but they allow any payments to be continued after these are revoked.

It is important that the regulations are made before 15 May to allow the Department to start processing applications and facilitate payments to farmers. Any delay in making the regulations will impact on the Department's ability to process payments to farmers.

The Chairperson (Mr Irwin): Thank you very much. Can you confirm that the regulations do not go further to or add anything over and above what has been currently agreed for CAP pillar 1? The regulations are similar to last year.

Mr Kerr: They are similar to the past, except for the legal certainty on aspects of the policy that have been decided upon.

Mr Mark McLean (Department of Agriculture and Rural Development): The only thing to point out is the transfer deadline. It does not apply for 2015 because there is no transfer of entitlements this year because they are being established, but you will recall that, in 2014, it was set as 2 May 2014. We had an informal consultation with stakeholders, and the preference was to keep it at 2 May for each year going forward. So, for 2016, it will be 2 May 2016, and so on in future years. There is no change to our existing approach.

The Chairperson (Mr Irwin): Just last week, there was some press speculation and Commissioner Hogan said something about the possibility of extending the 15 May deadline for putting in an application. Are you aware of that? What is the situation in regard to that?

Mr McLean: We are aware of it. At this stage, we are still waiting for a legislative proposal to be made by the Commission. It is thought that that will probably be considered by 22 April. Our position at the moment is that in another regulation the deadline is set at 15 May. At this stage, we do not see any reason to change it because our online application is up and running, and applications are starting to come through. The guidance is going out to farmers this week. There is guidance on the website. The greening guidance, which is, by and large, the last one, is more or less finalised. Our problem is that if we start to extend the deadline, we create a problem further down the road in trying to get payments to farmers in December.

The Chairperson (Mr Irwin): That is a concern that many people have.

Mr Byrne: I welcome the presentation. There are two issues that I want to ask you about. First, have you refined the procedures involved in the allocation of entitlements, because there is still some confusion about whether entitlements can be gained or not? Secondly, have the conditions and criteria for the greening payments, and the greening allocation, been finalised?

Mr McLean: The starting point for the allocation of entitlements is eligible land declared in 2015. Farmers are to declare all the land that they are farming and that they are sure is eligible. If you farm 22 hectares, you get 22 entitlements. There is a condition that you have to have claimed single farm payment and received payment on it, or been eligible for payment on it, in 2013. There are some exceptions, such as for private contract clauses and the regional reserve; but that is essentially the position for the allocation of entitlements. I stress that you do need to be farming the land that you are claiming on, which is taken to mean that you are making the decisions about the agricultural activity and taking the risks and benefits.

We are finalising our guidance on greening, but the main aspects of what can count towards greening have been on our website for some considerable time. The regulations confirm what features can be used for greening. They are landscape features, which we have defined under cross compliance, and are mainly hedges, sheughs and stone walls. There are also archaeological features and earth banks. In addition, land lying fallow, agro-forestry, short rotational coppice, afforested areas and areas with nitrogen-fixing crops are the other ones. That is a fairly extensive list. Landscape features — in particular, hedges — should go a fairly long way to meeting the greening requirement for a lot of farmers.

Mr Byrne: On the greening situation, farmers are concerned about how much detail they will have to supply on hedges, sheughs or other pieces of fallow ground. Will they have to supply accurate measurements?

Mr McLean: They will need to be as accurate as possible. A spreadsheet will be made available. People will fill in the length of the hedges to the nearest metre and the area of an area feature to the nearest 100 square metres, which is 0.01 hectare. There is one point that I would like to emphasise about the declaration of an ecological focus area. Farmers would be well-advised to declare all the features that they have on or adjacent to arable land, because if they are not declared, they cannot be taken into account. If they are declared and the Department finds that there is a little bit less or whatever, the lower area will count towards the requirement. As long as the requirement is met, there will not be any penalty for declaring a slightly higher length or area than what turns out to be the case.

Mr Byrne: That is OK, but there are worries that a nightmare scenario is developing.

Mr Anderson: Can I just come in on the back of that?

The Chairperson (Mr Irwin): Go ahead.

Mr Anderson: You talk about the length of hedges. What about the width of hedges? You talk about areas that qualify. Are there penalties if a farmer has put in for a hedge that was 1 metre wide last year and then grows out to be 2 metres? What happens here? How is this identified?

Mr McLean: The farmer needs to ascertain the length of the hedge. There are conversion factors to take account of the width, because hedges are of variable width. It is multiplied by five as a conversion factor. There is then a weighting factor that multiplies it by two. So, in effect, each metre of hedge is multiplied by ten. That is all set out in the online spreadsheet. When farmers put in the length of the hedge, the area will be calculated. Maybe the point you are raising is that sometimes you get scrub encroachment round hedges. We have used a rule allowing for two metres from the centre, which is four metres in total. That is a very wide hedge, and, really, when hedges get wider than that, you are talking about scrub encroachment, which would make the area ineligible. If you have ineligible area next to the hedge on the arable field, you would not then be able to count that.

Mr Anderson: So what width identifies scrub encroachment?

Mr McLean: The limit is two metres from the centre. Sometimes, the hedge is kept well on one side and might only be a metre from the centre, and on the other side it is three metres from the centre, because it has not been well kept. In that case, it would not be regarded as a hedge on the side that has not been well kept.

Mr Anderson: Interesting, thank you.

Mrs Dobson: Apologies for missing your presentation, Mark. I have read through the briefing. I just caught the end of the Chair's comments, so I think that you have answered this question, but I will ask it to have clarity in my own mind. Under EU rules, the deadline for the basic payment application can be extended. I think that you were answering this for the Chair when I walked in. Are there plans to do so, and what impact do you feel that this would have on payments, if it happened?

Mr McLean: The legislation has not been brought forward yet by the Commission, and it will probably be at least 22 April before it is agreed. I think that we are looking at a discretionary provision for member states and regions to decide whether they want to set a deadline later than 15 May — it would probably, although this is not totally confirmed, be up to 15 June. Our concern is that it just causes further problems down the road when it comes to getting payments out in December, because you effectively put everything back a month and processes that could have started on 16 May cannot start until 16 June. At this stage, we have almost all our guidance available online; the greening guidance should be there very shortly. We have our online system up and running, and applications are coming in. The packs are going out to farmers in the next few days.

Mrs Dobson: They are ready to go.

Mr McLean: Yes. At this stage, we do not see any reason for moving it beyond 15 May. When the packs arrive, it is for farmers to start progressing and getting the form completed, rather than leave it until a few days before the deadline, especially if people are applying as new entrants or young farmers, where quite considerable documentation is required.

Mrs Dobson: I declare that my husband receives single farm payment.

Potentially, then, if it is moved to 15 June, there is the possibility that they would not get their money in December. It could move to January. That is a very real concern.

Mr McLean: It puts that all under pressure. This year, we also have to calculate the entitlements. One of the things we need to know before we do that is the scale back required for the reserve, and we will not know that until we have almost all those applications processed. Some of them could well take some time to process, because of the amount of information we need to go through. The later we start, the greater the risk of it extending for quite some considerable time. The whole process for calculating entitlements would then be elongated.

Mrs Dobson: Your mindset would be to leave it as it is.

Mr McLean: Yes.

Mrs Dobson: If that £260 million coming into Northern Ireland in December was delayed, that would be of great concern to many farmers.

Will you clarify for me your assessment of the application process — you touched on this — for the young farmers' scheme? Can you take me through that? There are so many ifs, buts and maybes and much concern about that. Maybe you have covered that.

Mr McLean: There are a number of things on the young farmers' scheme that we need to verify; one is that the person is no more than 40 years of age in 2015. The second one is that they have the educational qualification, and the third one is whether they are head of holding. We have published quite a —

Mrs Dobson: I do not know whether you were listening last week, but this caused a lot of discussion and debate around head of holding as well, with the scenario of where a young farmer, maybe through the death of a parent, could have become head of holding at an early age and could be effectively ruled out because of the five-year limit. We did not get a lot of answers last week. Do you hold personal concerns on that? I asked, last week, whether they were thinking about taking legal guidance on that. Is there anything afoot in the Department?

Mr McLean: The legislation is very clear about the young farmers' payment; it puts a five-year limit on that. The Commission's intention behind the young farmers' payment was that it was to encourage young farmers to become head of holding and provide them with support during the early years when they are head of holding. It was never to give support to everyone aged 40 or under who is head of holding.

Mrs Dobson: As it is called the young farmers' scheme, the perception out there among many young farmers is that they will be eligible because they are under 40. That is why, last week, I suggested that it should have been renamed the new entrants' scheme, or something other than the young farmers' scheme. With lack of detail, young farmers do think that they are eligible for it. There is confusion out there.

Mr McLean: The legal position is very clear, and our guidance is clear, that there is a five-year limit. The two categories that it is not intended for are as follows: somebody who happens to be 40 years or under and who has been head of holding for longer than five years; or farms that have someone on them who is 40 years or under and who is not head of holding. I take the point about the name. It is not for all young farmers; it is for a specific category — those who are stepping up to become head of holding — and to give them support during their initial years as head of holding.

Mrs Dobson: You would agree then that it is misleading to call it a young farmers' scheme.

Mr McLean: Well, yes. I can see how the actual name would give the impression that it applies to all young farmers. Our guidance makes it clear that it applies to a specific group of young farmers as outlined in EU regulations.

Mrs Dobson: It is about getting that information out. That is very important.

The Chairperson (Mr Irwin): What you are saying is that those rules come from the Commission and not you.

Mr McLean: That is right. When the Commission put out its proposals to start with, that was made clear. At the time, there was no opposition or lobbying that it should apply to all young farmers.

Mrs Dobson: But they think it is, Mark.

Mr McLean: I appreciate that.

Mr Elliott: Apologies for missing the presentation. I have a quick query, because we have been through various issues for several weeks. I have a query around the sale or disposal of land. If you sell a portion of your farm, do the entitlements automatically transfer with it, or can you keep the entitlements to stack in your own land?

Mr McLean: Is this before entitlements are established this year that the land is sold?

Mr Elliott: Yes, let us look at that.

Mr McLean: If land is sold before 15 May 2015, there are a couple of options. One is that the person who sells the land can say, "I do not have that land any more; here is the land that I am farming", and establish entitlements in the normal way on that. The person who bought the land can say, "Here is land that I am farming, plus the land that I have bought and am now farming," and could establish their entitlements on that in the normal way. There is another option. It is one of the private contract clauses, whereby the person who sells the land can agree with the person who buys it that the former would initially establish entitlements on it and then the entitlements belonging to the area sold, immediately upon establishment, would be transferred to the buyer of the land who would then get paid in 2015. Essentially, the difference between those options is that the historical element that relates to the land that is sold would be transferred under the private contract clause, whereas it would be concentrated on the seller's land if it was not for the private contract clause. What the two parties concerned want to do in that sort of scenario is up to them.

Mr Elliott: But no entitlements are lost as such.

Mr McLean: No.

Mr Elliott: There is no slippage on any of that.

Mr McLean: No.

Mr Elliott: I want to make one final, slightly different, point. If someone had been renting land in conacre up to this year, and they have entitlements on that land but the owner is taking the land back, I assume that the owner will establish the new entitlements on it, even though the farmer, who has farmed it for years, had entitlements, as he thought.

Mr McLean: If the owner is farming the land in 2015, he will establish entitlements on it because he is farming it. If the person who was farming it until 2015 had 20 entitlements on 15 May 2014 at a certain value and, say, in 2015, he no longer had five hectares because the owner is now farming it, that farmer would have 15 hectares and would establish 15 entitlements. However, the total value of the entitlements held on 15 May 2014, which is 20 times whatever value, would be divided over the 15 hectares.

Mr Elliott: That is clear; thanks very much.

The Chairperson (Mr Irwin): Do members have any other questions? Is fallow land entitled to a single farm payment if it is kept tidy and mowed at certain times? What are the exact criteria?

Mr McLean: Fallow land is only going to be relevant to people who have a greening requirement. If you are using it to meet an ecological focus area requirement, it has to be out of production for a six-month period from 1 February to 31 July. For crop diversification, there is a two-month period in which

it has to be out of production, which is from 1 June to 31 July inclusive. The land needs to be maintained in an eligible state throughout that period.

The Chairperson (Mr Irwin): If you cannot touch it until 31 July, with regard to greening —

Mr McLean: You can mow it and so on —

The Chairperson (Mr Irwin): Before 31 July?

Mr McLean: As long as you do not harvest the grass.

The Chairperson (Mr Irwin): If you top it, for instance?

Mr McLean: Yes, you can do that. You cannot plant a crop on it, but you can have a grass cover on it. You can top it, but you cannot harvest the grass, and you cannot plant —

The Chairperson (Mr Irwin): Until after 31 July. Can you harvest a crop after 31 July?

Mr McLean: Yes, you can.

The Chairperson (Mr Irwin): OK, that is what I thought.

Do members have any further questions? OK. Are members content with the merits of the policy?

Members indicated assent.

The Chairperson (Mr Irwin): Thank you very much.