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# The Common Agricultural Policy Reform

## Direct Payments to Farmers: Decisions



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# **CAP Reform 2014-2020 – The Welsh Government's decisions for Pillar 1 Direct Payments**

## **Introduction**

On 14 January 2014 the Minister for Natural Resources and Food, Alun Davies, announced his decisions for the reform of the Common Agricultural Policy (CAP) Pillar 1, direct payments for farmers. This publication explains the decisions more fully, grouped in four main sections:

- Eligibility for payments;
- The Basic Payment Scheme and transition to it;
- Greening; and
- Other elements of the reform.

Decisions will come into force from January 2015. During 2014 the Single Payment Scheme (SPS) will continue to operate. From 2015 a five year transition will begin, introducing a new Basic Payment Scheme (BPS) in place of SPS with an additional payment for 'greening'. The BPS will make payments on the area of land farmed and by 2019 payments will be made solely on this basis. The Welsh Government will write to SPS claimants in July 2014 about their eligibility for new BPS claim entitlements in 2015. New entitlements will replace all those currently held.

There are further decisions for the Minister to take on matters of detail such as the definition of 'active farmer' (which somebody has to be in order to hold entitlements and to claim BPS payments), entitlement allocations and payment values, greening and additional payments to young farmers. These will be announced later in 2014.

The Welsh Government regards both Pillars of CAP as means to develop a prosperous agricultural industry. A consultation on Pillar 2, the Wales Rural Development Programme 2014-2020, will begin in February and will include proposals for schemes that will improve the competitiveness of agriculture, ensure the sustainable management of natural resources and climate action and achieve balanced development of rural economies and communities, including the creation and maintenance of employment.

## **Why is CAP changing?**

The European Union (EU) periodically reforms CAP. The changes taking place are for the period 2014-2020 but because of the long time taken to reach agreement in Europe they will not be implemented until January 2015. The reform applies to Wales because it is part of the UK, which is an EU Member State. The reforms are put into action by Regulations, to provide a legal framework, which the Welsh Government must adopt. The Regulations establish the BPS (in place of SPS) and additional elements such as 'greening' which collectively make up a package called the 'Direct Payment Scheme'.

The Regulations have provisions, some compulsory and some optional. Some of the compulsory elements offer choices about what to do. **Figure 1** summarises these. The decisions the Welsh Government has made regarding these options and choices are set out later in this document.

**Figure 1: compulsory and optional elements of the Direct Payments Regulations for 2014-20**

<b>Compulsory – What Wales must do</b>	<b>Optional – What Wales could do</b>
Introduce a BPS in place of SPS. BPS payments must be based on the area of land farmed.	Permit small farms to claim under a simplified scheme without cross compliance requirements. Introduce a 'Redistribution Scheme' that skews payments towards the 'first hectares' of every claim.
Complete, or make significant progress towards, change to area based BPS payments by 2019.	
Minimum claim size of 1 hectare.	Increase minimum claim size to up to 5 hectares.
Entitlements may only be held and payments claimed by 'active' farmers.	Consider agricultural activity that is insignificant or not the principal activity to be 'inactive'.
Farmers must comply with greening requirements, 30% of total payment will depend on 'greening' measures, so that natural resources that support food production are protected.	Introduce a scheme for additional payments in areas of natural constraint (essentially in less favoured areas).
BPS payments above €150,000 a year will be capped and reduced by 5%.	Introduce higher levels of capping for BPS payments greater than €150,000. Allow deduction of wage related costs before application of capping.
Establish a National Reserve to which young and new entrants will have priority.	
Eligible young farmers will receive higher BPS payments for up to five years.	
	Transfer money between the budgets for direct payments to farmers and rural development (Pillars 1 and 2).
	Introduce a scheme for coupled support.

### **The Welsh Government's goal**

It is very likely that the reduction of the CAP budget for 2014-2020 is the start of a long term decline in public support from Europe for farming. This makes it all the more important that the still significant budget <sup>1</sup> is used wisely to develop the Welsh agricultural industry. The latest Farm Business Survey statistics<sup>2</sup> show gaps in the profitability of the best farming businesses and the profitability of the average. There is scope for improvement and the imperative is that the industry must become more

<sup>1</sup> The Pillar 1 budget before 15% is transferred to Pillar 2 is €2.245 billion and for Pillar 2 is €355 million for the period 2014-20.

<sup>2</sup> <http://www.aber.ac.uk/en/ibers/science-into-practice/fbs/fbs-database/>

resilient against market setbacks and natural events to have a prosperous, long term future. The reform offers a predictable, still relatively high level of funding in which to Programme and to adapt farm businesses by 2020 to a future in which there will probably be even less support but fresh opportunities to position the industry strategically to develop new markets and growing global demand. The Welsh Government sees both CAP Pillars as complementary tools that should be used together. The intention is to use the Wales Rural Development Plan (RDP) (Pillar 2) to target investment in improvements in farm, forestry and food industry productivity, advice and support. Agri-environment schemes, including actions to develop renewable energy and to benefit or respond to climate change, will feature prominently to help protect, enhance and make best use of our natural environment.

## **Consultation**

The Welsh Government has developed its Pillar 1 proposals and made decisions on the basis of extensive consultation activity. The consultation paper published in July 2013 was supplemented by public meetings across Wales. A report of the consultation responses is published on the Welsh Government's website<sup>3</sup>. There was broad support for the proposals but no consensus about payment rates for different land regions.

Exhaustive data modelling has been undertaken to forecast different options and to scope their impact. This has been shared with and commented on by a working group which has included as members the FUW, NFU (Cymru), the CLBA and the CAAV and, latterly, the TFA.

A detailed consultation on proposals for Pillar 2 – the Wales RDP 2014-2020 - will begin in February.

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<sup>3</sup> [www.wales.gov.uk/topics/environmentcountryside/farmingandcountryside/cap/?lang=en](http://www.wales.gov.uk/topics/environmentcountryside/farmingandcountryside/cap/?lang=en)

## **Key features of the document**

A summary of the key decisions made on CAP Reform are below:

- A minimum claim size of 5ha will be applied
- A three land category payment model will be applied with Moorland and SDA in separate categories and DA and Lowland merged together
- Moorland will be classified as land over 400m within the existing 1992 Moorland Map
- Transition to wholly area based payments will be a five year period
- Farms claiming over €300,000 will have a 100% cap on claims
- There will be no Areas of Natural Constraint (ANC) scheme in Wales
- The EU's original greening proposals will be applied in Wales
- There will be a transfer of 15% from Pillar 1 to Pillar 2
- There will be no Small Farmer Scheme in Wales
- There will be a Young Farmer top-up in Wales
- There will be no form of coupled support

## Eligibility for Payments

This section focusses on eligibility to receive payments for farming. The Welsh Government will be deciding further details on these matters in Spring 2014. Payments will be made to those who:

- can meet the definition of an ‘active farmer’<sup>4</sup> carrying out agricultural activity on the area of land claimed; and
- have a minimum claim size of at least 5 hectares.

### Active Farmer

Payments will only be made to people who are ‘active farmers’. There has been much concern in the EU that organisations whose main business is something other than agriculture, or people who are claiming payments but are not farming themselves, should be barred. This issue is being looked at in great detail and the Welsh Government’s decisions on exactly who is eligible to claim payments will be confirmed later in 2014. In the meantime **Annex A** provides an overview of the criteria that we understand applies, prior to the publication of the CAP Pillar 1 Implementing Regulations in February, showing what claimants may have to meet to be eligible to claim payments, including the separate but associated issue of minimum claim size.

### Minimum Claim Size

The Regulations have stated that all claims must be a minimum of 1 ha but may be increased to 5 ha.

The Welsh Government will be applying a 5 ha limit. In European terms Welsh farms are large, with an average size of 83 ha. Our consultation suggested a minimum claim size of 3 ha to tie in with the Glastir minimum claim size but on further reflection it has been decided to increase it to 5 ha. This will allow more of the BPS to be distributed to larger farms which are generally more productive, and it will reduce administration. Farms with 3 ha or over are still eligible for the Glastir Scheme..

### Entitlements and the National Reserve

All farms must have entitlements to claim SPS payments. These ‘historical’ entitlements relate to what they produced during the reference years of 2000, 2001 and 2002. Historical entitlements will be extinguished on 31 December 2014. In 2015 new entitlements will be allocated, one entitlement being awarded for each hectare of land. In order to be eligible for this first allocation of new entitlements a person must:

- have received a SPS payment in 2013;

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<sup>4</sup> The definition has not been fully defined yet and further decisions will be taken and published in Spring 2014.

- or instead be able to provide evidence, such as receipts or accounts, to prove that they were farming in 2013.

A National Reserve will be established from 2015 as a source of entitlements for persons in particular circumstances. New entrants to farming and young farmers will have priority. The Welsh Government will decide in 2014 the details of eligibility criteria for applications to the reserve.

After new entitlements are issued they may be transferred by sale or lease but only to another 'active' farmer. Entitlements can only be activated for payment or transferred within the region for which they were created. Thus in the new Welsh system based on three land regions, entitlements will only be transferrable within those three land regions and not between them.

Further decisions about entitlements will be taken and publicised later in Spring 2014.

## Basic Payments Scheme (BPS)

The Regulations state that from 2015 payments must start to be based on the area of land farmed. This area based system must be based on objective criteria and factors such as the agricultural and economic characteristics of an area. The Welsh Government has a choice about whether to apply the same system across Wales or a more sophisticated system that takes account of different geographies.

Extensive modelling has been carried out in partnership with the farming unions and stakeholder bodies to examine possible payment systems and funding rates based on the area farmed. The Welsh Government policy aim from the start of the CAP reform process, supported by the stakeholder bodies, is to minimise the financial disruption to farm businesses that change from historic to area based payments will cause; to acknowledge the wider value that farming provides through management of the land; but also to recognise the inherent productive capacity of different land regions in how payment rates are set.

The consultation described payment systems using two or three land regions. The alternatives are a flat rate system in which all farmland in Wales is funded at the same rate or a system with more than three land regions.

Statistically there is relatively little difference between the better two, three or even four land category models in terms of impact on the level of financial disruption to farm payments. Similar numbers of farms would gain or lose, although they would be different farms in each case and there would be winners or losers in every farm sector. The Welsh Government consulted on options for a two land region system (Moorland; with SDA, DA and lowland grouped together), or a three land region model (Moorland; SDA; with DA and lowland combined)<sup>5</sup>.

### New payment system

The three land region model will be used in Wales: Moorland; SDA; DA and lowland combined.

Moorland has attracted much attention in the consultation. It is widely recognised to be less productive land for agriculture and that it should have a lower payment rate. However there is no consensus on what the payment rate should be or what land should be categorised as Moorland. All data modelling work however has shown the importance of placing Moorland in a separate region in order to reduce financial disruption.

To address concern that better quality grazing should not be included in the Moorland region, Moorland will be restricted to areas at 400 metres or higher within the body of land mapped as having Moorland vegetation in 1992. This method

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<sup>5</sup> A four category model was rejected; although it is the most subtle and is marginally better at limiting financial disruption; it is the most complex to administer which could lead to delays in releasing farmer's payments. A flat rate model would cause high levels of redistribution with only 17% of farms remaining within 10% of what they currently receive. There was a low level of support for either of these options within the recent direct payments consultation.

considerably reduces the numbers of farms having high proportions of Moorland in their land mix. Only one farm in Wales has only Moorland and only 297 farms have Moorland for half or more of their land. Mapping Moorland using altitude, rather than vegetation, is more straight forward and objective. Landowners will be able to appeal against their specific land classification in summer 2014.

The reduction of the Moorland region has meant that the area of claimed land classified as Moorland has fallen to around 12% of the original total. In order to have a payment system that recognises the agricultural production potential of different land a three region system has been chosen. A three region system also causes less financial disruption.

A copy of the Moorland map with the 400m altitude areas shown is attached at **Annex B**.

### Payment rates

The Welsh Government will not know exactly until 2015 how many new entitlements are issued, how many of these are activated for payment, or what demand there is for the National Reserve and for additional payments from the Young Farmer Scheme. Because the total demand will not be known until 2015 it is not possible to make an exact decision about payment rates right now. Instead it is sensible to set nominal payment rate values for the three land regions as indicators of the likely payment rates that will be introduced in 2015. Data modelling suggests that payments should be weighted in the ratio of 1:10:12 between Moorland: SDA; DA/lowland to create a system with an acceptable level of financial disruption in the move to area based payments and one that recognises the difference in the productivity of different land regions. In indicative terms this ratio might mean payment rates by 2019 in the region of:

- Moorland around €20 a hectare;
- SDA around €200 a hectare;
- DA and Lowland (combined) around €240 a hectare.

It is important to note that although the payment rates for Moorland and SDA are lower than those consulted on, the transfer of around 130,000 ha from Moorland to the SDA region means that in aggregate cash terms payment to them together increases to some €126.8m a year by 2019.

### **Transition to Area Based Payments**

The Welsh Government has a choice about how quickly the BPS system of wholly area based payments is introduced. The Regulations provide three options for transition:

- claimants immediately move to an area based payment system in 2015; or
- claimants move to wholly area based payment system by 2019 in equal size steps; or

- minimum levels of payment rate increases must be provided to ‘gainers’ by 2019 but complete transition to area based payments takes an indeterminate time (‘tunnelling option’).

### *How long will transition take in Wales?*

There will be a five year transition period in Wales with claimants receiving 100% area based payments by 2019.

Modelling work has shown that it is not possible to avoid claimants’ payments changing. This is an outcome of moving from historical payments, which are unique to each claimant (being derived from stocking levels and various livestock related quotas), to a small number of payment rates for different land regions.

It is important to strike a balance between providing enough time for farm businesses to adjust to having lower payments against the need to move to a more equitable system ensuring those that stand to gain receive those higher payments in a reasonable time period. It is likely that after 2020 the CAP budget will fall again and there is a risk that if the transition is not completed by that time then those farms still receiving payments above the target regional payment rates will be moved straight away to the target rate. A five year transition gives adequate time to accommodate change and is a reasonable compromise between cushioning losses for those who will lose whilst being fair to those who gain. The Welsh Government has had an ambition that farms would not lose more than 10% in any year of the change. Modelling suggests that this will be achievable for 84% of claimants. The proportion rises to 89% of claimants when those that receive arguably small payments are taken out of the picture<sup>6</sup>.

There has been stakeholder interest in the “tunnelling” option where losses are limited to a percentage each year. This has been ruled out after modelling as it was found that it would result in large numbers of farms who are currently receiving high single payment scheme payments still being significantly above the target payment rates come 2019. At the same time 10,153 farms would still be paid less than the target rate. Whilst the Welsh Government does not dismiss the difficulty any business faces when support reduces, it is not in the interest of the farming industry as a whole that a minority continue to enjoy significantly higher levels of support (which they have done for many years) whilst the majority still receive less than they are entitled to.

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<sup>6</sup> ‘Small payments’ means less than €5,000 over the whole five year transition which is typically a loss of less than €1,000 a year.

## Capping

Capping is the progressive reduction of payments above a certain level with the recovered funds being directed into Pillar 2. There is a mandatory capping level for all claims over €150,000 of 5% but the Welsh Government has the option to set higher reductions up to 100%.

*What level of capping will be applied in Wales?*

The levels of capping which will apply are shown in **Figure 2**. The Welsh Government will not be deducting the cost of wage related costs prior to calculating the deduction.

**Figure 2: capping levels in Wales for the BPS**

Annual BPS payment (€)	Mandatory capping level %	Wales extra capping %	Total capping %
150,000 – 200,000	5	10	15
200,000 – 250,000	5	25	30
250,000 – 300,000	5	50	55
300,000 +	5	95	100

*Why have the capping levels been chosen?*

The Welsh Government is of the view that public support should be limited and that very large CAP payments are excessive. There has been high support for maximum capping from industry stakeholders. No allowance will be made for wage related costs from the gross claim before applying the capping reductions because that would be counter to the policy decision.

Money saved through capping will be transferred to Pillar 2 to support rural areas.

## Greening

30% of Pillar 1 payments will be payable for 'greening'. Greening is compulsory and farms may not waive this portion of their payment without invoking a financial penalty. Greening means agricultural practices beneficial for the climate and the environment.

*How do farmers in Wales comply with greening?*

Wales will be implementing the EC's default greening proposals based on maintaining permanent grassland, crop diversification and ecological focus areas.

Land farmed in accordance with the EC Regulation on Organic Farming is deemed to be automatically green, but organic farms with non-organic land will have to apply the greening rules to their non-organic land.

A flowchart showing an outline of how to qualify as 'green' along with a "frequently asked question" document on permanent grassland is at **Annexes C–D**.

*Why has this been decided?*

Adopting the default measures is the most straight forward means for the majority of farms to qualify without significantly impacting on their businesses. There was significant support for this option in the consultation responses. Pillar 2 is a better mechanism to take action to benefit the natural environment.

Further decisions will be made in Spring 2014 on the details of how greening will operate.

## **Other elements of the Reform**

### **Pillar Transfers**

A maximum of 15% can be transferred from Pillar 1 to Pillar 2; there is also an option to transfer up to 25% of the RDP from Pillar 2 to Pillar 1. This will be at a Wales wide level rather than being deducted from individual farmer payments.

*How much will be transferred between pillars?*

The maximum of 15% will be transferred from Pillar 1 to Pillar 2. There will be no transfer from Pillar 2 to Pillar 1.

*Why has this decision been made?*

The Welsh Government recognises that both pillars support farming and they must be used together to develop the industry. The RDP provides essential business support for farming through advice, training and through agri-environment schemes. It supports rural businesses and communities and it is to be developed as a tool for farming and the wider rural economy.

The CAP budget has fallen for the first time in history and there is every sign this will continue to decline. Welsh farmers will need to get used to lower levels of public subsidy and the intention is that this transfer boosts RDP support schemes that will make the industry more resilient, more profitable and less reliant on subsidy. The increased level of funding to Pillar 2 will aim to put farming on the best possible footing by 2020 when CAP budgets are likely to fall again.

### **Small Farmer Scheme**

The Regulation allows the development of an optional Small Farmer Scheme which would offer small farmers a fixed direct payment with exemption from cross compliance and greening. A maximum payment of €1,250 could be granted using up to 10% of the National Ceiling.

*Will there be a Small Farmer Scheme in Wales?*

There will be no Small Farmer Scheme in Wales.

*Why has this decision been made?*

A Small Farmer Scheme would only support around 1,104 farms. In addition the Welsh Government does not want to have any farms which do not follow the cross compliance requirement. Any exemption may raise the risk of a decrease in environment and animal health standards in Wales.

## **Young Farmers Scheme**

There is a mandatory scheme under the CAP Regulations for a specific Young Farmers Scheme under Pillar 1. This will allow up to 2% of the national ceiling to provide young farmers (under 40 years of age) to receive a top-up on their basic payment for up to five years.

*Will this be available for farmers in Wales?*

Yes, this is a mandatory scheme and Wales will be implementing in line with the CAP Reform Regulations. Further details about the eligibility criteria that will apply will be published in Spring 2014.

## **Areas of Natural Constraint (ANC)**

The CAP Reform Regulations include opportunities for both Pillar 1 and Pillar 2 to provide additional payments for farmers in disadvantaged Areas of Natural Constraint (ANC). These areas are defined by biophysical characteristics that relate to climate, soil and terrain. Up to 5% of the direct payment national ceiling could be awarded as additional payments to farms wholly or partly in the ANC.

*Will Wales have an ANC Scheme?*

Wales will not be operating a Pillar 1 ANC scheme.

*Why is there no ANC Scheme planned for Wales?*

The Regulations do not allow for strict targeting of funds distributed through a Pillar 1 ANC Scheme and consequently ANC support would be distributed without sufficient regard to the return for the public purse and the genuine needs of farm businesses. This would be wasteful and would not achieve change efficiently in terms of making specific farms more efficient or profitable. There was relatively little support for a Pillar 1 ANC in the consultation responses. Any support for business profitability and viability will be targeted instead through the RDP – further details will be published in a consultation starting in February 2014.

## **Coupled schemes**

Wales does not currently use a coupled support scheme. The current Regulations allow the development of a scheme to farming sectors important for economic, environmental or social reasons.

*Will there be a coupled support scheme in Wales?*

There will be no coupled support scheme in Wales.

*Why is there no coupled support scheme in Wales?*

The Regulations do not permit strict targeting of funds distributed through a Coupled Scheme and consequently support would be distributed without sufficient regard to the return for the public purse and the genuine needs of farm businesses. Coupled support also runs the risk of reducing the incentive for farms to adjust to a future when CAP support is all together less and it might encourage production inertia rather than focus on market demand and trends. The consultation provided no compelling evidence in support of coupled schemes. Instead the Welsh Government will provide targeted support through the RDP to improve farms' efficiency and profitability.

## **What do farmers need to do now?**

Rural Payments Wales will be contacting you in July 2014 with your land regions based on current land declarations. These regions will be applied to the new payment rates for the May 2015 application period. Any inquiries or subsequent appeals against the classification of land as Moorland will begin at that time.

## **Where can they get further information?**

Further information can be found on the Welsh Government CAP Reform Webpages

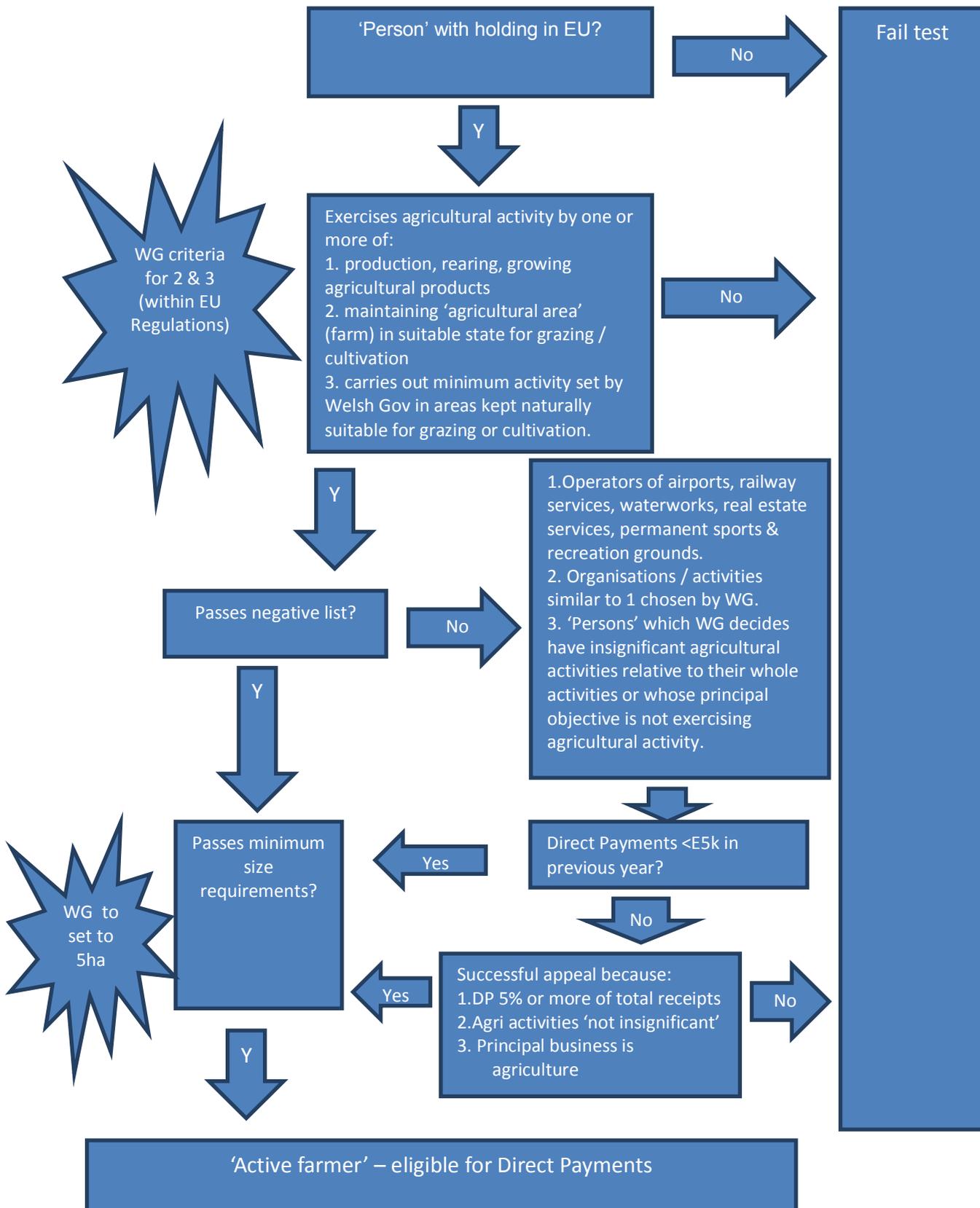
You can also speak to the Rural Payments Wales Helpdesk on 0300 062 5004

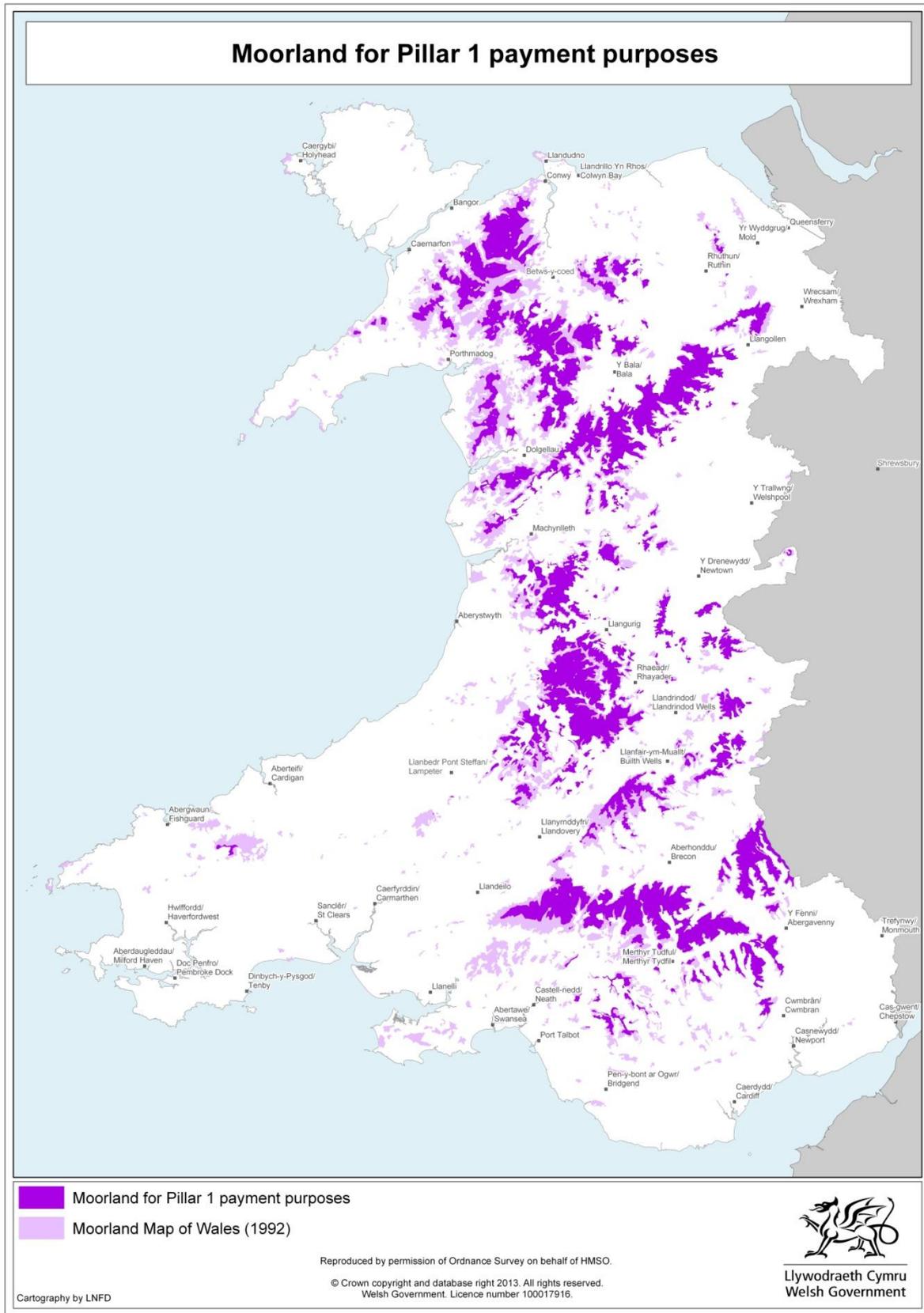
Alternatively, you can contact us via our postal address:

Rural Payments Wales  
P.O. Box 1081  
Cardiff  
CF11 1SU

Or email: [rpwonline@wales.gsi.gov.uk](mailto:rpwonline@wales.gsi.gov.uk)

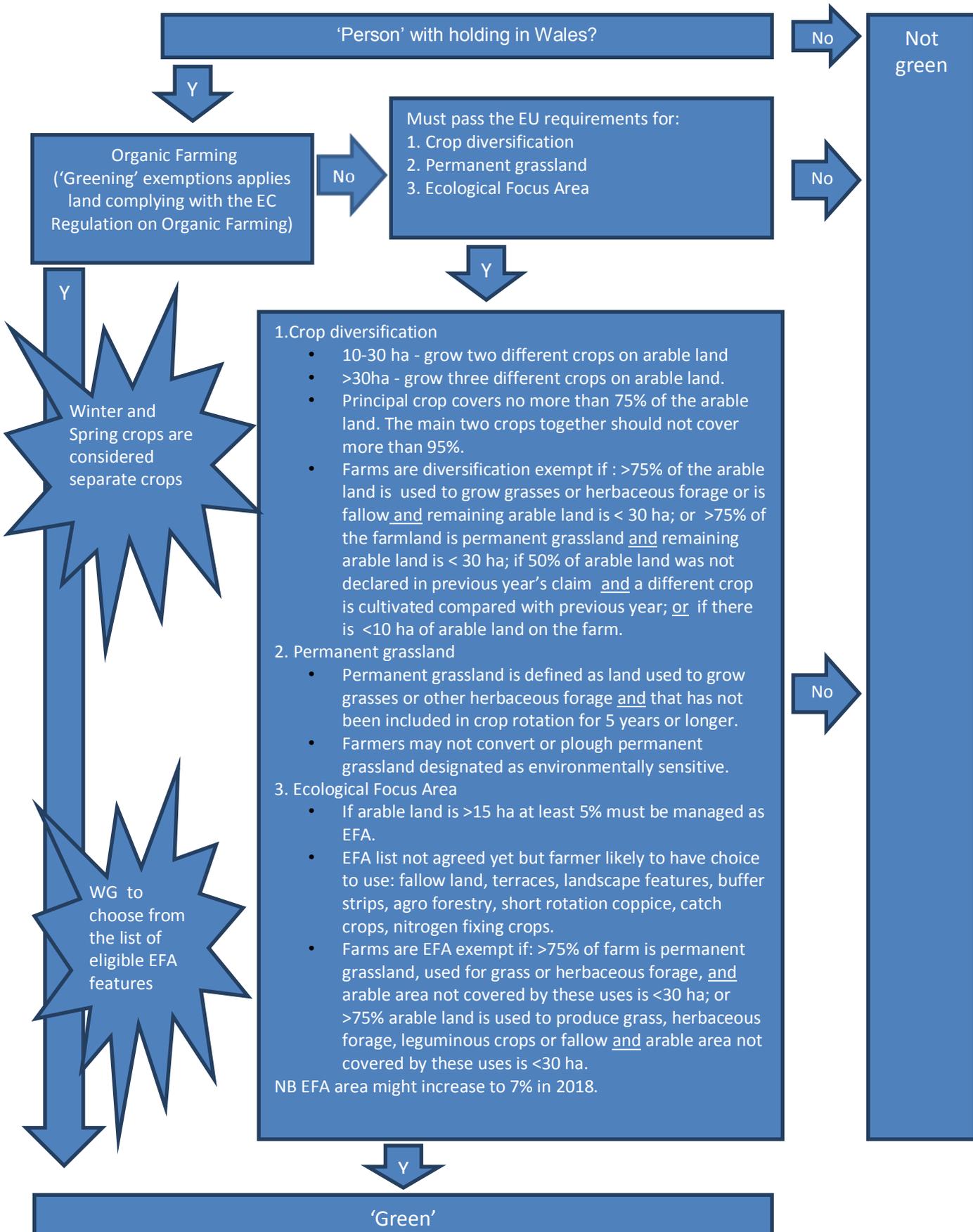
# Are you an active farmer?





# Are you 'Greening' compliant?

Annex C



## Permanent grassland – Frequently Asked Questions

This annex provides opinion on commonly asked questions about permanent grassland but it is not definitive legal advice or a substitute for seeking independent advice.

### Common questions asked about ‘permanent grassland’

#### a. What is permanent grassland?

The European Commission defines permanent grassland as *‘land used to grow grasses or other herbaceous forage naturally (self seeded) or through cultivation (sown) and that has not been included in the crop rotation of the holding for five years or more; it may include other species such as shrubs and/or trees which can be grazed provided that the grasses and other herbaceous forage remain predominant as well as, subject to a decision by Member States to include land which can be grazed and which forms part of established local practices where grasses and other herbaceous forage are traditionally not predominant in grazing areas.’*

#### b. Am I permitted to convert permanent grassland?

It depends on the situation. In areas of permanent grassland designated as protected under Article 45(1) no ploughing will be allowed. These Article 45(1) areas are ones that are covered by European Directives for wild birds, the habitat, fauna or flora: they are the Natura 2000 network of sites. In practice there will already be environment designations on these places in Wales which would ban or require landowners to seek permission to cultivate the sward. The Welsh Government will have the power to add to these areas if it chooses on the basis of various criteria which the Commission is developing. The Welsh Government has not considered whether to do so or what the potential scope and benefits or costs of doing so might be.

Otherwise, all other permanent grassland, not designated for special protection, can be ploughed and reseeded *and would still qualify as permanent grassland as long as the land is reseeded as grassland*. Permanent grassland can also be grazed and mown / cut for hay and silage. It is important to note that permanent grassland will remain subject to the Environmental Impact Assessment (Agriculture) (Wales) Regulations 2007, if uncultivated or semi-natural.

Permanent grassland can be converted to arable if not designated for protection but in making that choice farmers should consider how this will alter the ratios and hectares of grassland and arable land on their farms to the extent that it might impact on them meeting the requirements of the ‘greening’ Regulations.

#### c. What about direct drilling and over-sowing if grassland cannot be ploughed?

Unless specifically protected under Article 45(1) permanent grassland can be ploughed and reseeded. Welsh Government’s understanding is that direct drilling and over-sowing is permitted on permanent grassland, but if it is permanent

grassland protected under Article 45(1) this would probably require permission from Natural Resources Wales and/or may not be allowed.

- d. When the Welsh Government assesses the greening reference hectareage for permanent grassland, will this be done on a farm to farm basis or on a national basis?

The Regulations give the Welsh Government a choice about whether to apply the 5% ratio test on a Wales wide basis, regionally or sub-regionally (which could mean individual farms). The Minister has not made a decision about what he will do but he has indicated that he is minded to apply the rule at the Wales level, not individual farms, because that will be more straightforward to administer and would suit farmers better.

### Background note on the Regulations

The Direct Payment Regulations (DP Regs) consider permanent grassland as part of the package of 'greening' measures.

Article 45(1) places a duty on the Welsh Government to designate for strict protection areas of permanent grassland covered by EU Directives<sup>7</sup>. It also provides WG with a choice to designate additional areas if WG decides this is necessary to protect other environmentally valuable permanent grasslands. The likely criteria to exercise this choice are if the permanent grassland:

- a. Covers organic soils with a high percentage of organic carbon, such as peat land or wetlands;
- b. Hosts habitats listed in Annex I of Directive 92/43/EEC or protected under national legislation;
- c. Hosts plant species listed in Annex II of Directive 92/43/EEC or protected under national legislation;
- d. Is of significant importance for wild bird species listed in Annex I of Directive 2009/147/EC;
- e. Is of significant importance for wild animal species protected under Directive 92/43/EEC or protected under national legislation;
- f. Is permanent grassland of high nature value as defined by objective criteria to be established by the Member State?
- g. Covers soils with a high risk of erosion.

No ploughing or conversion of grassland is allowed in designated areas. The Welsh Government has not considered whether to designate additional areas.

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<sup>7</sup> Directive 92/43/EEC – Natural habitats and wild flora and fauna. Directive 2009/147/EC for wild birds.

As well as designating protected areas, Article 45(2) requires the Welsh Government to make sure that the ratio of permanent grassland in relation to the whole agricultural area does not decrease by more than 5% with respect to a baseline measurement set in 2015<sup>8</sup>. The Welsh Government may apply the '5% test' at a Wales level or regionally or on individual farms; and it has to inform the Commission by 31 July 2014 what it will do. If the 5% test is failed the Welsh Government will be required to make individual farmers who have converted land to other uses revert that land to permanent grassland. An important exemption is that if afforestation<sup>9</sup> is the reason for failure of the 5% test then permanent pasture reversion is not required. The Regulations provide for the Commission to make further legislation about definitions and methodology for calculations.

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<sup>8</sup> The baseline is the ratio of the sum of the area of permanent grassland declared in claims in 2012 and any new land declared as permanent grassland in 2015, divided by the total agricultural area in 2015.

<sup>9</sup> Short rotation coppice, Christmas trees and fast growing trees for energy production are not eligible elements of afforestation.