

## BASICS

Greening remains a key part of the 2017 BPS. Calculations need to be re-done each year to reflect changes in cropping. Approximately 30% of a claimant's total BPS payment is conditional on complying with the Greening rules.

There are three standard Greening measures that all farmers across the EU need to comply with;

1. Ecological Focus Areas (EFAs)
2. Crop Diversification (CD)
3. Retention of Permanent Grassland

The following sections provide a checklist of what claimants need to consider.

## LAND DEFINITIONS

Under Greening there are three basic types of land;

1. Permanent Grassland
2. Permanent Crops
3. Arable Land

Of these, Arable Land is the most important for Greening.

All three categories added together comprise the claimant's **Eligible Agricultural Land** (also known as eligible area).

Greening is calculated across the whole 'BPS holding' - i.e. on all the land entered onto a single claim form, even if this is made up of multiple farms or units.

**Permanent Grassland** - is any land that has been in grass for five years or longer. The 6<sup>th</sup> time a field is entered on the claim form as grass it becomes Permanent Grassland. *It does not matter if the grass has been reseeded, it is the length of time the land has been out of the arable rotation rather than the age of the sward itself. The planting of a catch-crop such as stubble turnips would break the five-year sequence, but this would need to be demonstrated.*

Grass includes other 'herbaceous forage' - lucerne, sainfoin, vetches and clovers. *Other forage crops such as maize and kale are 'Arable'.*

## PENALTIES

If Greening measures are not followed then the Greening payment will be reduced. The rules are summarised below;

- the penalties for the Crop Diversification and EFA elements are calculated and applied separately (then added together at the end of the process)
- Greening penalties are only applied to the Arable Land (not land in Permanent Grassland or Permanent Crops)
- for each part of Greening (EFA / CD) penalties range from 0% up to 15% of the BPS on Arable Land.
- the penalty is calculated based on how much of a shortfall there is against the Greening requirement - *if the*

## ORGANIC FARMS

Land that is certified as being organic is exempt from the Greening requirements (although the Greening payment will still be made). Where a holding is part-organic, part-conventional, only the organic land will be exempt from the Greening rules. The non-organic land needs to satisfy the crop diversification rules and EFA rules alone. EFA features sited on the organic land will not be counted.

Alternatively the exemption can be ignored and the Greening requirements applied across the whole holding. *This may be helpful for farms growing too few crops on their non-organic land to meet crop diversification rules.*

Land put into grass under a Stewardship arable reversion option will still be treated as Permanent Grassland. *Field margins can be treated as part of the main crop or can be separated out as a part parcel.*

**Permanent Crops** - is any land in crops that are in place for five years or more without replanting and yields repeated harvests. *Examples would be miscanthus, short-rotation coppice, nurseries, vines, orchards, etc.*

**Arable Land** - is any eligible land that is not Permanent Grassland or Permanent Crops. *It includes fallow land and temporary grass as well as crops.*

Land has to be uncropped from 1<sup>st</sup> May to 30<sup>th</sup> June to count as fallow. Fallow land can be planted with wild bird and nectar mixes, but these cannot be harvested or grazed after the 30<sup>th</sup> June. Herbicides and cultivation to control weeds is permitted. Temporary grass can be used as fallow, as long as the rules are followed.

Temporary grass is simply grassland (or other 'herbaceous forage') that has not been in place for over five years.

*Note that Greening is a yearly test. As cropping changes the areas of each land type will alter year-on-year. This means that claimants' Greening requirements could change for different years of the BPS.*

*requirement is ignored completely a 15% penalty will apply; a minor shortfall will incur a penalty close to 0%*

- thus, when penalties are added together, if they are at the maximum for both crop diversification and EFA, the full 30% Greening payment will be lost on Arable Land.

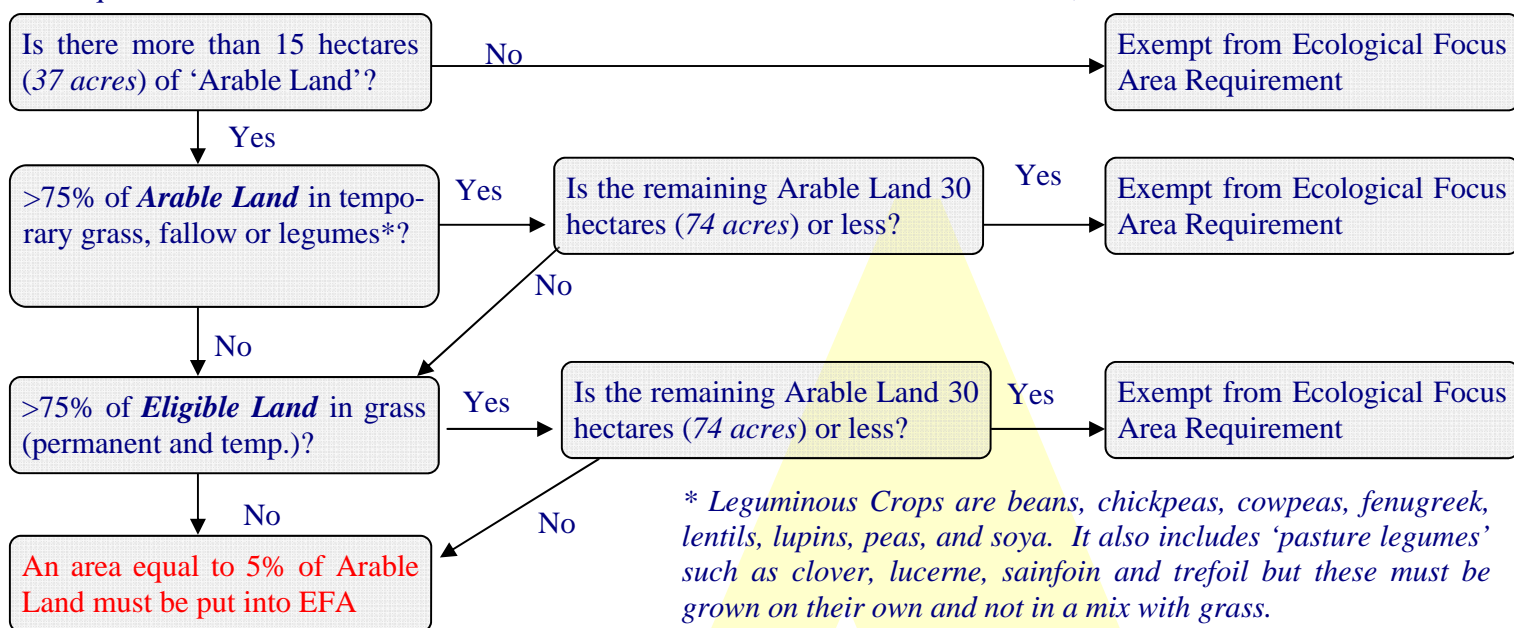
The legislation sets out various 'administrative penalties'. These were waived for 2015 and 2016, but for 2017 will have the effect of taking the maximum penalty to 120% of the Greening payment, and 125% for 2018 onwards.



## 1. ECOLOGICAL FOCUS AREA (EFA)

Ecological Focus Area can be thought of as 'environmental set-aside'. It is generated by Arable Land (see definition on the previous page). There is a requirement to have an area equal to 5% of the Arable Land in EFA.

The EFA requirement could increase to 7% after 2017, but this is looking unlikely. The flowchart below sets out the various thresholds and exemptions and allows the amount of EFA to be calculated;



The EFA requirement can be satisfied by land other than fallow. A list of potential EFA eligible areas has been set in the EU legislation. Outlined below are the five options chosen by DEFRA for 2017. Other UK Administrations have made different choices, and there may be changes to the rules in future years.

The EFA requirement must be sited on, or adjacent to, or within 5m of arable land. This means that a hedge between two permanent grassland fields would not be eligible for

EFA buffer strips but hedges separated from arable land by a non-eligible BPS feature e.g. a hard track or ditch 5m or under will be eligible.

A 'matrix' system converts linear features (hedges and buffer strips) into an area equivalent. The matrix will also give different features different weightings in terms of EFA area, depending on how environmentally beneficial they are deemed to be.

Feature	Definition	Conversion Factor	Weighting	EFA Area
1. Fallow Land	No crop production or grazing from 1 <sup>st</sup> Jan to 30 <sup>th</sup> June ①. No plantings allowed in this period other than wild bird, nectar mixes and grass ②. Existing temporary grass can be used for fallow ③. Minimum 2m width, minimum area 0.01 Ha.	-	1.0	1m <sup>2</sup>
2. Hedges	No minimum or maximum height or width. Minimum length of 20m (unless joined by another hedge at both ends). Gaps of up to 20m allowed. ④	5m <sup>2</sup> per m run	2.0	10m <sup>2</sup>
3. Buffer Strips	Next to watercourses ⑤ or parallel with and on a slope to a watercourse (in field buffer). Minimum 1m width. Cross-compliance buffers are eligible.	6m <sup>2</sup> per m run	1.5	9m <sup>2</sup>
4. Catch Crops and Green Cover	Catch Crop established by 31 <sup>st</sup> Aug retained until 1 <sup>st</sup> Oct in the scheme year. Green Cover established by 1 <sup>st</sup> Oct in scheme year and retained until 15 <sup>th</sup> Jan in following year. Minimum area 0.01 Ha. Crop must be a mix of at least one cereal and one non-cereal ⑥	-	0.3	0.3m <sup>2</sup>

① Note that this is a different period to that required for fallow land under the Crop Diversification rules.

② Grass can only be sown in the fallow period for non-agricultural production reasons e.g. an agri environment scheme.

③ Subject to usual no-production rules - i.e. grass could not be made into hay or silage until 1<sup>st</sup> July.

④ If one side of a hedge is under someone else's control only half the hedge will count for EFA (1m run = 5m<sup>2</sup>).

⑤ Watercourses include lakes, ponds, streams, canals and ditches. Temporarily dry ditches are allowed. One alongside buffer and one in field buffer allowed per side of a watercourse.

⑥ Must establish quickly, achieve ground cover and use available nutrients - rye, barley, oats, vetch, lucerne, mustard, phacelia and oilseed radish. Crops other than the 8 listed cannot be used for EFA. Undersown grass is also an eligible crop.



Feature	Definition	Conversion Factor	Weighting	EFA Area
5. Nitrogen-Fixing Crops	Min. area 0.01 Ha. Leguminous crops eligible ☺ No requirement for low or not inputs. Must be in place between 1 <sup>st</sup> May and 30 <sup>th</sup> June.	-	0.7	0.7m <sup>2</sup>

☺ Includes all Leguminous Crops (see definition on previous page).

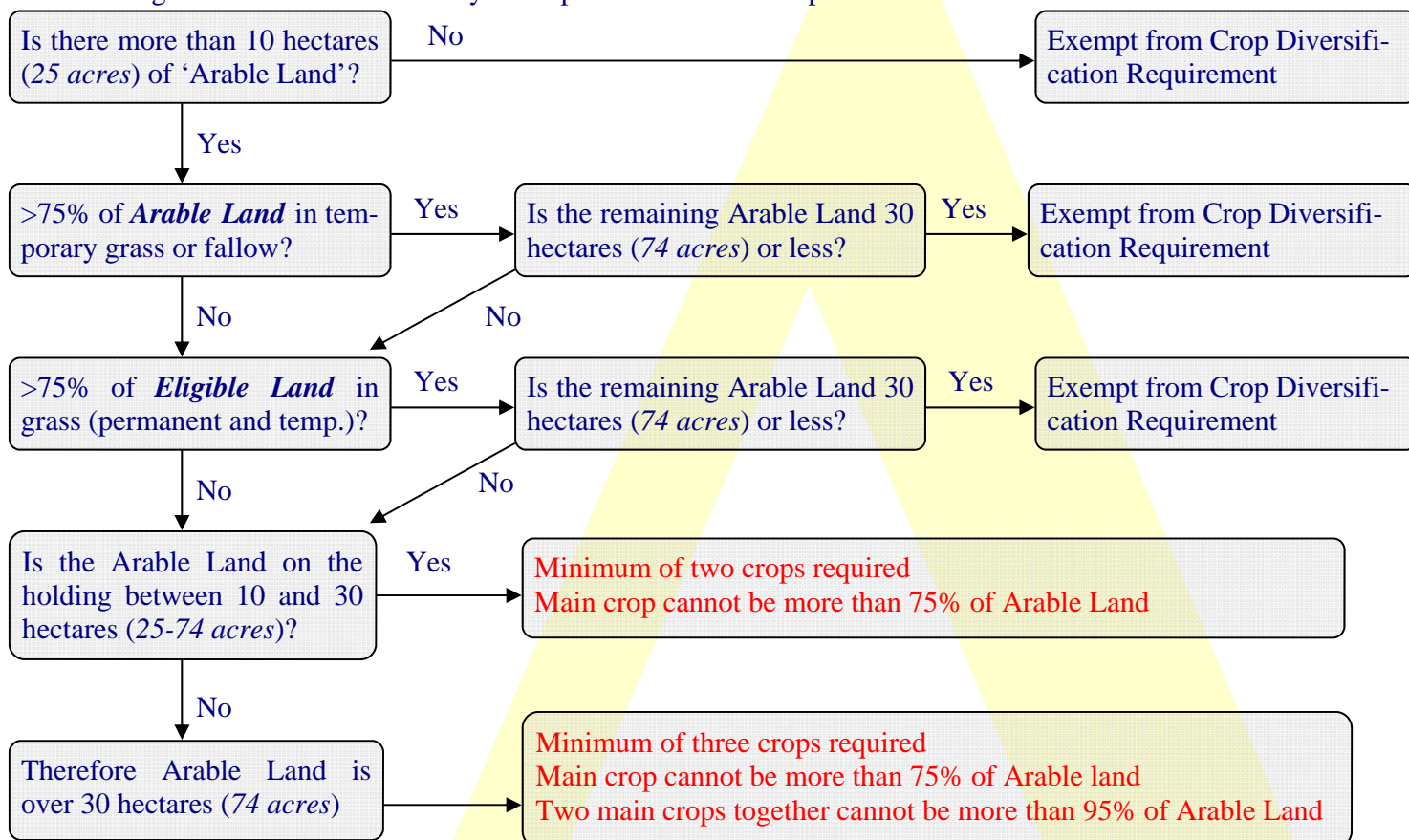
Note, there were options to use land in agro-forestry, woodland margins, short-rotation coppice and forested areas, and landscape features such as field trees, ditches, ponds and stone walls but these were rejected in England.

Note that where an EFA hedge borders EFA fallow, NFC or catch/cover crops, the EFA area of fallow, NFC or catch/cover crop must be reduced by 2.5m<sup>2</sup> per metre of adjacent hedge.

## 2. CROP DIVERSIFICATION

Claimants with more than 10 hectares of Arable Land on their holding will need to have a variety of crops.

The flowchart below sets out the various thresholds and exemptions.



### What is a 'Crop'?

For the purposes of Greening this is defined as plants of a different genera (or species in the case of brassicas). This means that wheat, barley, oats, oilseed rape, linseed, potatoes, sugar beet etc. are all separate crops. Fallow and temporary grass are also 'crops'.

Spring and winter varieties are treated as separate crops. The National List is used to distinguish varieties.

For pulses the PGRO Recommended List is used. For varieties not on these lists use the EC Common Catalogue (forma hibernalis - winter, forma aestiva - spring). Any variety not specifically listed as spring or winter will be classed as a spring crop.

There are some oddities that need to be watched;

- onions, garlic, and leeks are a single crop
- cabbages, cauliflower, calabrese, broccoli, sprouts and kale are all one crop.

A further crop diversification exemption designed for *specialist crop growers* (potatoes, veg etc.) covers situations where land is taken on short-term tenancies for one year to grow such crops. It is known as the 'new-land, new-crop' exemption and has two parts;

1. more than 50% of the Eligible Land must not have been claimed by the farmer in the previous year (i.e. the farmer must have taken on new land that year), **and**
2. all the Arable Land must be growing a different crop from the previous year (likely, if cereals land has been taken on to grow a specialist crop for one year).

For Crop Diversification the crop must be in place during the 'cropping period' from 1<sup>st</sup> May to 30<sup>th</sup> June, 5% of farms will be inspected in this period. For crops harvested before 30<sup>th</sup> June, stubble or crop residue will be accepted as evidence of the crop. For late sown or crops with short cropping period seed certificates or photography can be used as evidence. Where crops are under-sown, it will be the main crop that counts (i.e. not the under-sown one). Where there is a genuine mix of crops sown, that mix can be treated as a separate, distinct crop.



### 3. PERMANENT GRASSLAND

It was originally proposed that individual farms would need to maintain an equivalent amount of Permanent Grassland on their holdings as in a base year. It has now been decided that in the UK this requirement will be operated at a national level.

National Governments are required to ensure that the area of Permanent Grassland does not fall below 95% of a reference area (effectively the area of PG in 2015). If this occurs, a restriction on ploughing will be introduced.

*The area of Permanent Grassland has tended to increase over time so it is unlikely that restrictions will be introduced.*

This means there is effectively no change from the current situation (there is already a national pasture retention rule under cross-compliance). Farmers will be at liberty to plough up permanent grassland if they wish. However claimants should remember the separate Environmental Impact Assessment (EIA) rules on ploughing-out natural grassland.

### AGRI-ENVIRONMENT SCHEMES

Greening (especially EFAs) affects existing agri-environmental schemes (ELS, HLS etc.) and new CSS agreements

**The key point is that land under *any* agri-environment agreement *can* count towards the Greening requirement (subject to Greening eligibility) i.e. EFA features can be existing ELS or CSS options.**

However, EU 'double funding' rules mean that some agri-environmental payments will be reduced where there is an overlap between the two sets of requirements.

Payments for a number of options under the Countryside Stewardship Scheme are reduced if the same land/feature is used to satisfy Greening. Full details of this can be found in the CSS Manual.

### ADMINISTERING GREENING

Greening makes the process of applying for support much more testing. The calculations have to be re-run each year as cropping patterns change.

Applications for 2017 will be made mostly online however after the issues with the Rural Payments system in 2015 and 2016 a paper form may also be available. All claimants must be registered on the Rural Payments System.

Information on Greening will be required as part of the BPS claim in the same way it was in 2016.

The deadline for submitting a claim is **15<sup>th</sup> May 2017**.

Greening compliance will be the subject of inspections in the same way to the rest of the CAP. Cross-compliance continues (with some minor changes) under the BPS.

### CHANGES TO GREENING

From 2018 a number of changes are likely following the European Commission undertaking a 'simplification' of the Greening Rules. These include:

- ban on pesticides on fallow land, catch and green cover crops and nitrogen-fixing crops (pulse) used for EFA.
- removal of sowing deadlines for catch and cover crops.
- greater flexibility for the qualification of some landscape features.
- making rules easier to understand and implement.

### HOW CAN ANDERSONS HELP?

We understand the Greening rules and, importantly, we also understand what the on-farm implications are.

We can help you work out what these new rules mean for your business, and how to comply at least cost and to maximum benefit.

*For further information please visit our website*

*[www.theandersonscentre.co.uk](http://www.theandersonscentre.co.uk)*

**Or contact a member of the team:**

**01664 503200**

**[enquiries@theandersonscentre.co.uk](mailto:enquiries@theandersonscentre.co.uk)**

**Old Bell House  
2 Nottingham Street  
Melton Mowbray  
Leicestershire  
LE13 1NW**