

## INTRODUCTION

Greening will remain a key part of the BPS until the scheme ends. The 2018 scheme year has seen a number of rule changes that applicants need to be aware of. These include;

- Restrictions on applying Plant Protection Products (PPP) on Ecological Focus Areas (EFA) land, and also restrictions on some field operations on EFA fallow
  - Removal of the 30Ha limit on Greening derogations
  - Weighting of Nitrogen Fixing Crops (NFC) for EFA increased to 1.0 from 0.7
  - An extension to the period Catch Crops must be in place
- More details on these are given in the sections that follow.*

## 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 (out of the arable rotation) 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 re-seeded, 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'.* As from 2018, land recorded as fallow will also be deemed to be out of the arable rotation, meaning that

## 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 and EFA rules in its own right. 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. *For example, this may be helpful for farms growing too few crops on their non-organic land to meet Crop Diversification rules.*

## BASICS

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

Greening calculations need to be redone each year as cropping patterns change. Information on Greening is included on the annual BPS application. The deadline for applications in 2018 will be the usual 15<sup>th</sup> May date.

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

any combination of grass / fallow for five years will result in the land being deemed as permanent pasture. *Note that this rule change **only** applies from 2018 onwards and not retrospectively, so the earliest this can apply is 2023.*

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.*

*Confusingly, the minimum uncropped period and the management rules for fallow are different depending on whether it is fallow for EFA or fallow for Crop Diversification. See below for more details.*

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.*

## HOW CAN ANDERSONS HELP?

Greening makes up 30% of the total BPS payment - getting the calculations wrong can result in significant financial losses.

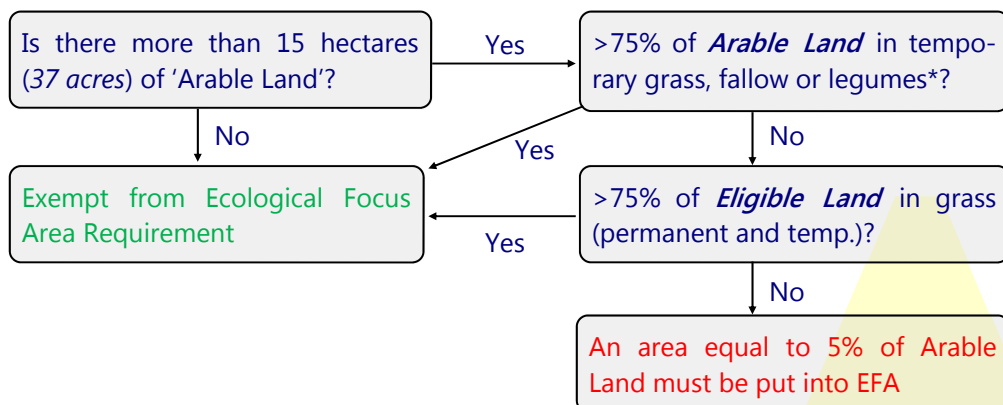
We understand the Greening rules and, importantly, we also understand how real-world farming operates.

We can help you work out how to comply with the rules at least cost and for maximum benefit to your business and the environment. *This will be particularly important this year for some claimants with the change in rules requiring a different approach to compliance.*

## 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 holding's Arable Land in EFA. The flowchart below sets out the various thresholds and exemptions and allows the amount of EFA to be calculated;



\* Leguminous Crops are beans, chickpeas, cowpeas, fenugreek, lentils, lupins, peas, and soya. It also includes 'pasture legumes' such as clover, lucerne, sainfoin and trefoil but these must be grown on their own and not in a grass mix.

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 2018 (and very likely to be the same for 2019). Other UK Administrations have made different choices.

The EFA requirement must be sited on or within 5m of arable land. This means that a hedge between two permanent grass-land fields will not be eligible for EFA. However, a hedge that is

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 <sup>①</sup> . No plantings allowed in this period other than wild bird, nectar mixes and grass <sup>②</sup> . No PPP may be applied in the Fallow period or cultivations to control weeds <sup>③</sup> . Existing temporary grass can be used for fallow <sup>④</sup> . 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. Now includes trees in a line.	5m <sup>2</sup> per m run	2.0	10m <sup>2</sup> <sup>⑤</sup>
3. Field Margins <sup>⑥</sup>	Minimum 1m width. Cross-compliance margins are eligible.	6m <sup>2</sup> per m run	1.5	9m <sup>2</sup>
4. Catch Crops and Cover Crops	Catch Crop established by 20 <sup>th</sup> Aug retained until 14 <sup>th</sup> Oct in the scheme year. Green Cover crop established by 1 <sup>st</sup> Oct in scheme year and retained until 15 <sup>th</sup> Jan in the following year. Minimum area 0.01 Ha. Crop must be a mix of at least one cereal and one non-cereal <sup>⑦</sup> .	-	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 (see later).

② Grass can only be sown in the fallow period if specifically required under a Rural Development (agri-environment) scheme.

③ There are **no** exemptions to the PPP or cultivation ban **during** the fallow period - e.g. it is **not** possible to spray or cultivate to control blackgrass etc.

④ Subject to usual no-production rules during the EFA fallow period. No restrictions on grazing / mowing outside the fallow period.

⑤ 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>).

⑥ Prior to 2018 these were 'Buffer Strips' - they had to be sited next to watercourses. All field margins are now eligible.

⑦ 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 (NFC)	Min. area 0.01 Ha. Leguminous crops eligible <sup>®</sup> No requirement for low or not inputs. Must be in place between 1 <sup>st</sup> May and 30 <sup>th</sup> June. No PPP can be applied from sowing until harvest <sup>®</sup> .	-	1.0	1.0m <sup>2</sup>

<sup>®</sup> Includes all Leguminous Crops (see definition on previous page). From 2018, this can include mixtures of NFC and other crops (e.g. clover and grass) as long as NFC makes up over 50% of the crop.

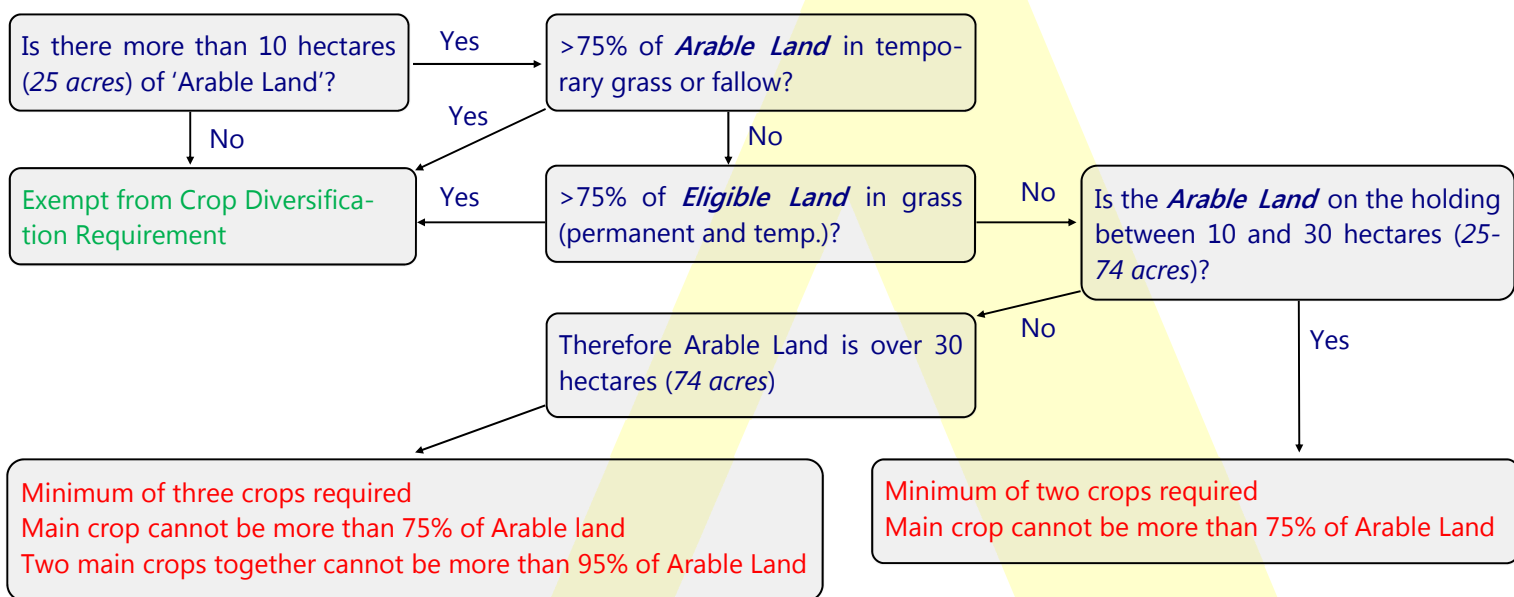
<sup>®</sup> PPP ban includes seed dressings. If the crop is not harvested, the PPP ban continues until the end of the year (31<sup>st</sup> Dec).

Note that there are rules on 'stacking' EFA features. 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. Temporary grass is also counted as a separate 'crop'.

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.

Fallow is counted as a separate crop for Crop Diversification. Unlike EFA fallow, CD fallow only has to be out of production for the cropping period (see below). The management rules on this type of fallow are less restrictive - PPPs can be applied and cultivations carried out in preparation for the following crop (but not planting).

The minimum area a crop must cover is 0.01 Ha.

### Timing

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 a 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.

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).

### 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 was actually 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 previous situation under the SPS (there was already a national pasture retention rule under cross-compliance). Farmers are 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

Land under an HLS, Mid or Higher-Tier Countryside Stewardship Scheme (CSS) agreement can count towards the Greening requirement (subject to Greening eligibility). However, EU 'double funding' rules mean that some agri-environment payments will be reduced where there is an overlap between the two sets of requirements.

There are 19 CSS options that are affected by this rule. Full details of this can be found in the CSS Manual. HLS agreements are exempt from any payment reductions.

In all cases, options applied for as part of the four new 'streamlined' CSS packages introduced for 2018, cannot be used to count towards the Greening requirement.

### 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 there is non-compliance at all with Greening 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.

In addition, there are 'administrative penalties' which increase the penalties beyond just the Greening payment (*i.e. it starts to reduce the 'core' BPS as well*). For 2018 onwards this can increase the effective level of penalty to 125% of the Greening payment.

*For further information please visit our website*

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

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