



Single Farm Payment Scheme

INFORMATION LEAFLET 8

TRANSFER OF PAYMENT ENTITLEMENTS

Scope of Leaflet

This leaflet deals with the transfer of payment entitlements in cases where businesses have changed since the reference period (2000 to 2002). Five types of change are covered:

- Where one business has joined with another – otherwise known as **mergers**;
- Where part of a business has separated or a business has been divided between partners to create several businesses – otherwise known as **splits**;
- Where the management of the business has changed for example from being a sole producer to a limited partnership or from a Scottish partnership to a limited company - otherwise known as **changes in legal status**;
- Where holdings or part of holdings are **sold** between the Reference Period and 15 May 2005;
- Where holdings or part of holdings are **leased** between the Reference Period and 15 May 2005; and
- Where holdings or part of holdings are **inherited**.

Please note that the buying and selling or the leasing of individual payment entitlements are **not** covered here. These transactions will be possible once the Scheme opens and will be dealt with in a separate leaflet.

Mergers

This category covers those businesses that combine to create one business with a singular approach to management, benefits, and financial risks.

In these cases we will take the number and value of payment entitlements derived from the reference amounts and hectares from the original businesses and combine them into a single set of entitlements.

Splits

This category covers those circumstances where a part of a holding separates from the original business to create a new business with its own management, distribution of benefits, and financial risks.

In order to recognise the split, at least one of the farmers making up the original business must remain with either the original or new business created.

In these cases, SEERAD will split the number and value of payment entitlements on the basis of the **production units** from the original business. In this situation “production units” mean the sheep, cattle, arable hectares etc. It will be for the parties concerned to agree as to how these production units are divided. We cannot become involved in any disputes and no payment will be made until the parties involved reach agreement.

Changes in legal status between the Reference Period and 31 December 2004

It is not possible to address all the possible types of changes in a leaflet. Some changes will be simple – like a sole producer becoming a partnership. Others will be more complex and may involve, for example, a merger with another business at the same time.

The advice in the following paragraphs is aimed at the general question of whether a farmer that earned payment entitlements in the reference period for the Scheme, can claim the resulting payment if they subsequently changed their legal status.

The European Commission has recognised that businesses will change (between the reference period and the opening of the scheme) but it is trying to make a distinction between those changes which are not primarily concerned with the single farm payment scheme (for example, changes to legal status) and those that are. The Commission has put in place certain conditions which we must observe.

As to how this works in practice we will apply three key tests that arise from the conditions, namely:

- **Do the individuals or group continue to meet the definition of a “farmer” before and after the change in legal status?**

To be eligible, producers must meet the definition of having a holding within Scotland and have an agricultural activity

- **Do the number and value of payment entitlements remain unaltered through the point of change in legal status?**

Changes in legal status cannot be used to have a detrimental effect on the number of hectares kept in Good Agricultural and environmental condition.

- **Is the thread of control (management, benefits and financial risk) maintained throughout the change in legal status?**

Changes in legal status cannot be used as a way to deal with sales of payment entitlements.

If the arrangement to change the legal status of a business would pass these key tests there should be no difficulty in granting the single farm payment to the new business on the same basis as the business that earned the payment entitlements.

It should be remembered that the above is general advice and, in practice, we may have to make further enquiries to confirm the exact position.

**Sales of Holdings (whole of part) since the Reference Period and 15 May 2005
(Private contract clause in case of sale)**

This category covers those producers who have sold or intend to sell by 15 May 2005 their holding or part of it, together with their payment entitlements (or the number corresponding to the part sold). It also covers the selling of assignments to crofts on the market.

We will transfer the entitlements between the seller and the buyer providing the following conditions are met:

- The sales contract must be completed by 15 May 2005;
- The sale must include a clear statement that the land is sold with the entitlements;
- The seller establishes his right to the entitlements by
 - ✓ completing the application form;
 - ✓ attaching a copy of the sales contract; and
 - ✓ meeting the definition of an active farmer by completing an IACS / AAA form for at least the minimum land area (0.3ha); and
- The buyer applies for the single farm payment and attaches a copy of the sales contract to their application

**Leases of Holdings (whole of part) since the Reference Period and 15 May 2005
(Private contract clause in case of lease)**

This category covers those producers who have leased out or intend to lease out by 15 May 2005 their holding or part of it, together with their payment entitlements (or the number corresponding to the part leased).

We will transfer the entitlements between the lessor and the lessee providing the following conditions are met:

- The lease agreement must be in place by 15 May 2005;
- The lease must include a clear statement that the land is leased with the entitlements on the basis that each hectare is matched with one payment entitlement;
- The lessor establishes his right to the entitlements by
 - ✓ completing the application form; and
 - ✓ attaching a copy of the lease agreement; and

- ✓ meeting the definition of an active farmer by completing an IACS / AAA form for at least the minimum land area (0.3ha); and
- The lessee applies for the single farm payment and attaches a copy of the lease agreement to their application

When the lease expires, the payment entitlements will revert to the lessor.

Inheritance

In a case where a farmer receives a holding or part of a holding by way of inheritance, we will calculate the payment entitlements for the area involved. This will involve calculating the number and value of payment entitlements based on the number of production units inherited. (Production units means the number of animal, hectares of crops etc used to generate a payment under the relevant direct payment schemes) In cases where the farmer already has payment entitlements, we will recalculate the number and value of payment entitlements by adding together the relevant reference amounts and dividing this sum by the total number of hectares relating to the original and inherited holdings.

Your next steps

If you fall into the category of sales, leases or a change in legal status then you need take no action at this time. We will be issuing application forms for the Single Farm Payment Scheme as part of the IACS / Area Aid Application Forms in March 2005. There will be the option in the application form to report and apply to be treated under the above headings.

If you are involved in a business merger or split or inheritance case then you should inform your area office in writing.