

To enter the electronic consultation on the European Commission's proposals for future "Direct Payments":

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This consultation covers the draft Regulations that the European Commission has recently published on the future Common Agricultural Policy (CAP) post-2013. The proposals cover all aspects of the CAP and include a new system for making direct payments to farmers (Pillar 1), revised funding mechanisms for a variety of rural development initiatives (Pillar 2) as well as the future inspection and audit requirements that will apply to both pillars.

- strongly agree
  - agree
  - neither agree nor disagree
  - disagree
  - strongly disagree
  - I don't know
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## DIRECT PAYMENTS

**Background** The Commission has set out a new framework for future direct payments to farmers. The Commission propose to cancel existing entitlements to the Single Farm Payment (SFP) and to award entitlements to the new Basic Payment in May 2014. The Regulations also describe a number of additional direct payments which could be made to farmers. Some of these Scotland would have to offer whilst others Scotland could choose whether they should be available. Scotland would be required to make payments to allow "Greening" of the CAP, to provide top ups to "Young Farmers" and to make a "Small Farmer Scheme" available. However, Scotland could choose whether to provide additional Pillar 1 payments for producers in "Areas with Natural Constraints" (formerly Less Favoured Areas (LFA)) and "Voluntary Coupled Support" payments, for example future payments like those offered by the current Scottish Beef Scheme (SBS). This means that in contrast to the current situation where direct payments to agriculture are mainly provided through the Single Farm Payment (SFP), future direct payments would comprise a smaller Basic Payment, topped up with one or more additional payments. All of these schemes have to be funded from the allocation Scotland is given for Pillar 1. This means that depending on the choices Scotland makes, between one third and two thirds of Scotland's budget would be available for future Basic Payments. It is therefore very important that we know what you think about the various options being proposed by the Commission.

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## SECTION 1: BASIC PAYMENTS

The Commission's proposals extend the current definition of agricultural activity which should allow Scotland to define a minimum level of activity that would be needed in order to receive direct payments on land which is naturally in a state suitable for grazing and cultivation. Such a provision would mean that a minimum activity could be set in Scotland, on land that naturally meets Good

Agricultural and Environmental Condition (GAEC). **Do you agree that a minimum level of agricultural activity should be required for future payments?**

*Agree*

**What might be a suitable definition for minimum activity in Scotland?**

*Scottish Environment LINK believes that where existing management is achieving beneficial environmental conditions eg such as are appropriate to maintain habitats in Natura sites in good condition or to maintain landscape features in a stable condition then it is the results achieved rather than the activity that it is important. We fully recognise the issue of 'slipper farmers' where payments are made to absentee, inactive land managers and agree that this is a misuse of public funds. A move to area payments should reduce the issue of tradeable entitlements, so that payments are made to specific land areas and the compliance conditions should be outcome based. We therefore believe that minimum activity must be defined according to specified environmental outcomes. These should be specifically referenced to GAEC and where extensive grazing is to be used as one of the criteria it should be at level where the environmental benefits of low grazing are not lost.*

The Commission are proposing that existing entitlements to Single Farm Payments (SFP) be cancelled and entitlements to new Basic Payments allocated to "active" farmers. This means that eligible applicants would need to have activated current SFP entitlements in May 2011 as well as still being actively farming at the time of the new award (2014). **Do you agree that new entitlements for Basic Payments should only go to farmers who both activated SFP entitlement (s) in 2011 and are still actively farming in 2014?**

*Disagree*

To help stop payments going to inactive farmers, the Commission propose that in order to receive payments, the direct payments received by an applicant in the previous year should have been at least 5% of their non-agricultural income/receipts. A claimant would also need to be carrying out any minimum activity test that Scotland set. **Do you agree that new entitlements should only go to "active" farmers as proposed by the Commission?**

*Strongly Disagree*

A derogation in the regulation means that neither the 5% income test nor the minimum activity test would apply where direct payments in the previous year were less than €5000.

**Do you agree that claimants who receive less than €5000 direct payments should not be required to undertake any minimum activity requirement set in Scotland?**

*Disagree*

At the start of the new system, at least 40% of the value of the new Basic Payment must be based on an area rate (i.e. available funding divided by the number of hectares eligible for payments) whilst the remaining 60% can reflect historic SFP entitlements held by the farmer in the final year of the current scheme. **Do you agree that initially at least 40% of the Basic Payment should be an area-based payment and 60% historic?**

*Strongly agree*

The draft regulation also allows for Basic Payments to be regionalised which means that the funding available in Scotland for the Basic Payment would first be allocated between a number of Scottish regions. The value of the new Basic Payments in each region would be determined by the area rate (40% in Year 1) and the historic element (60% in Year 1). This means that the value of payment entitlements is likely to vary between regions. The regions could be determined for example, by agricultural potential or administrative region. Entitlements would only be tradeable within the region they were allocated in or with another region that had the same value. **Do you agree that Scotland should be able to allocate different payment rates in different parts of Scotland?**

*Agree*

The Commission are proposing that between 2014 and 2019, the value of Basic Payments within a region be averaged. This means that in each region, value would transfer from high value entitlements to low value entitlements during this period. If Scotland is not sub-divided into regions, all Basic Payments in Scotland would need to have the same value by 1<sup>st</sup> January 2019. The Commission see this as a way of delivering a fairer and more justifiable system of support. **Do you agree that Basic Payments within a region should have a common value by 2019?**

*Strongly agree*

The Commission propose to cap large payments. Salaries and the Greening Payment would be exempt from capping and the sums obtained would be transferred to Pillar 2 for Rural Development, in particular for innovation. Capping would start to apply when direct payments (excluding salaries and Greening Payments) exceed €150,000 (roughly £130,000). The Commission are proposing that a 20% deduction would apply to payments between €150,000 - €200,000, 40% for payments between €200,000 and €250,000, 70% between €250,000 and €300,000 and 100% for anything over €300,000. Claimants would still receive the Greening Payment in addition to this capped payment. As an indicator, around 98% of current Scottish Single Farm Payment claimants receive less than €150,000 and less than 0.5% of current claimants receive more than €300,000. Since the proposed capping excludes salaries and Greening, the number of claimants who are likely to be subject to capping will be smaller than is indicated by the current figures. **Do you agree that direct payments should be progressively capped as set out by the Commission?**

**Do you agree that the maximum amount that might be paid should be €300,000?**

**Do you have any further comments to make on "Section 1: Basic Payments"?**

*The 'active farming issue' can only be resolved once the terminology is defined. If we agree that activity is related to environmental outcomes then the amount earned relative to farmers' income outside of farming is irrelevant and might encourage large landowners to opt out of this and the consequent cross compliance regulations.*

*LINK believes that while there might be merit in simplifying procedures for smaller units, all farmers must comply with environmental regulations and there should be no automatic derogations for those earning less than €5,000.*

*LINK would agree with different regional payments if the criteria for defining these were environmental value or physical disadvantage. We disagree with the Pack proposals that the land with the highest agricultural potential should receive the highest payment because of historic production subsidies. We recognise there will need to be a transition from current payments to achieve a more equitable system by 2020 where area payments are based more clearly on physical disadvantage and environmental value so that public benefit is more evident. A perpetuation of a system where the richest land gets the highest subsidy inhibits innovation, inflates land prices and ultimately is not of benefit to the farming community as well as the wider rural economy. The current £478 million annual Single Farm Payment ([Scottish Farm Income 2011](#)) must be more clearly translated from an economic subsidy into environmental and social public benefit. The transition to area payments needs to be done as quickly as is feasible eg 60/40 in 2014, 40/60 in 2015, 20/80 in 2016 and completed by 2017.*

*We do not understand how entitlements can be traded if the aim is to produce a full basic area payment system by 2019. It is the trading in entitlements that has encouraged the creation of absentee 'slipper' farmers. More attention needs to be paid to defining how the benefits of Basic Farm payments are allocated between tenant and landowner and how this affects the price of farm land, restricting the access of new entrants.*

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## **SECTION 2: FURTHER SCHEMES WHICH SCOTLAND WOULD HAVE TO OFFER**

Scotland would also be required to provide four further schemes and would also have the option to choose whether or not to offer a further two schemes. In some cases, the draft regulation sets a maximum deduction that would be allowed for a particular scheme which means that Scotland could choose a lower level of funding. We estimate that if Scotland chose to operate all possible schemes at the maximum level allowed, then this could account for around two thirds of funding leaving roughly one third of the funds for the new Basic Payments. If on the other hand, Scotland chose to fund only the minimum of additional schemes then these would require one third of Scotland's funds leaving around two thirds for Basic Payments.

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The first scheme that Scotland would have to offer is a simplified scheme for Small Farmers. Eligible farmers i.e. with at least 3 hectare of eligible land would be able to choose whether or not they wished to take part in the scheme. If they did participate, they would receive a standardised fixed payment somewhere between €500 - €1000 (£433 - £867 at today's exchange rate), rather than the range of direct payments to which they might otherwise have been entitled. They would be exempt from cross compliance penalties and from "Greening" requirements. Around 14% of current Scottish SFP recipients receive less than €1000 suggesting that there could be interest in a scheme such as this. The Small Farmer Scheme could account for up to 10% of Scotland's national ceiling. **Do you agree that there should be a simplified procedure for Small Farmers as set out by the Commission?**

*Disagree*

Scotland would also be required to provide additional payments to Young Farmers and this could account for up to 2% of Scotland's national ceiling. A Young Farmer would be someone under 40 years old who is about to set up business or who has set up business in the last 5 years. The payment would be allowed for the first 5 years of the new business and would be in the order of 25%

of the average value of payment entitlements held and activated by the farmer up to a 54ha limit. **Do you agree that additional payments should be available to help Young Farmers?**

*Neither agree nor disagree*

The Commission are keen that the CAP be “Greened”. This means that in addition to SRDP environmental measures, 30% of the Pillar 1 direct payments budget would in future be devoted towards new “Greening” Payments.” These would be for three types of environmentally-beneficial farming practices which are described in later questions. These conditions would be mandatory. Organic producers would be exempt from this requirement as would producers who receive payments through the Small Farmer Scheme, however, Greening requirements would apply to farmers whose holdings are fully or partly situated in Natura 2000 areas. Failure to comply with relevant requirements could put the Basic Payment in jeopardy. **Do you agree that 30% of Scotland’s direct support budget should be devoted towards Greening the CAP?**

*Strongly agree*

**Do you agree that arable farmers with more than 3 ha of arable crops should be required to grow at least 3 types of arable crop?**

*Disagree*

In order to help reduce carbon emissions, the Commission wish to ensure that the area of land under “**permanent pasture**” is maintained and not converted into arable production. This provision is not intended to prevent the normal reseeding of grassland. **Do you agree that farmers with permanent pasture on their farm should be required to maintain this land as pasture?**

*Agree*

The Commission also wish to encourage the development of “**Ecological Focus Areas**”. This would require farmers to ensure that an area equal to at least 7% of their eligible hectares (excluding permanent grassland) was used for a number of environmentally-friendly functions such as being fallow, buffer strips, landscape features or had been forested under Rural Development funding. **Do you agree that at least 7% of a farmer’s eligible hectares excluding permanent grassland should be devoted to Ecological Focus Areas?**

*Strongly agree*

**Are there any other criteria you think should be included under Greening?**

*LINK accepts there may be merit in simplifying procedures for small units but as discussed above must not be at the expense of complying with protecting environmental and landscape features on farmland.*

*LINK strongly urges the Scottish Government to define permanent pasture in a way that protects areas of ecological significance both for their biodiversity and landscape value (including historic heritage). This is partly defined in the current GAEC and [EIA Uncultivated Land and Unimproved Pasture Regulations 2006](#) but does require*

*better identification and procedures to maintain these areas in good environmental condition. The [EIA Public Register](#) and judgment of applications as recorded there suggests this should be more rigorously applied. We would suggest that these areas of permanent pasture should be mapped through existing GIS datasets from existing work by the Scottish Government, its agencies and research projects (eg SNH, SEPA, FCS, HS, RCAHMS & James Hutton Institute).*

*Ecological Focus Areas could easily be extended to 10% particularly if this included areas of farmland and landscape features not currently recorded on the IACS FID mapping system. LINK therefore believes that ecological focus areas should be at least 10% of the Basic Area. Areas eligible as EFAs should be mapped and a scheme devised to prioritise those areas where the most significant environmental benefits can be achieved under this proposal. Farmers should be made aware that for areas not forming part of the EFA 'Greening' proposals other cross compliance regulations may still apply. Existing mapping of High Nature Value areas may help inform this process.*

*We would also recommend that each farmer should be supplied with a map defining his/her priority EFA areas so that these can be preferentially protected. There must be some process where EFA areas are selected for the maximum ecological benefit. Such maps should also identify other environmental, landscape and heritage features that should be protected as part of ordinary cross compliance conditions.*

*Consideration should be given to how EFAs could support maintenance of existing on-farm habitats and landscape areas that are environmentally beneficial but which would otherwise be excluded from support. Habitats that could be included in EFAs include: uncropped arable land, woodland buffers, hedgerows, scrub and gorse, field boundaries, buffer strips, archaeological sites and extensively managed non-arable farmland (such as extensively managed grassland of high environmental value and traditional orchards). 'Key' or 'premium' areas such as historic and valuable grassland should be part of EFAs. These could be identified through a prioritisation matrix, which would include statutory sites and also important non-statutory sites such as sites of archaeological interest and Local Nature Conservation Sites. To maximise the benefit of this measure, in reality, some national flexibility to set priorities for EFAs will be necessary. If a decision were made for MS to select from a menu of greening options, this menu of choices must not be extended to take greening measures away from the key priorities of biodiversity and ecosystem protection and management, and it should include options for measures that will enhance ecological and landscape connectivity. To achieve the latter, options could be made available for farmers and land managers to work together to link EFAs across the landscape.*

*Membership of Assurance schemes and agri-environment measures undertaken should not be seen as an option for opting out of greening measures.*

Article 23 of the draft Regulation sets out that up to 3% of the Basic Payment ceiling should be used to create a National Reserve. The draft regulation would allow for the National Reserve to operate at the Scottish level. **Do you agree that the National Reserve should be operated at a Scottish rather than UK level?**

*Agree*

The National Reserve could be used to allocate entitlements to young farmers (i.e. who are under 40 years old and who have started farming within last 5 years). **Do you agree the National Reserve should be used to help Young Farmers?**

*Agree*

The Commission also propose that a National Reserve could be used to help farmers in areas subject to restructuring or development, in order to prevent land being abandoned. **Do you agree that the National Reserve should be used to help where there is a risk of land abandonment?**

*Agree*

**Do you have any further comments on "Section 2: Further schemes which Scotland would have to offer" (Character limit 200)**

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### **SECTION 3: ADDITIONAL SCHEMES WHICH SCOTLAND COULD ALSO CHOOSE TO PROVIDE.**

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Voluntary Coupled Support is designed to replace existing article 68-type measures such as the Scottish Beef Scheme (SBS). As set out by the Commission, Scotland could choose whether or not to offer Voluntary Coupled Support. For example, it would be possible for Scotland to offer headage or area-based payments in sectors or regions where specific types of farming were important for economic and/or social reasons. The SBS currently accounts for around 4.8% of Scotland's national ceiling and the current proposals would allow a similar scheme at a similar size. **Do you agree that Scotland should have the option of having Voluntary Coupled Support?**

*Agree*

Member States who currently exceed 5% coupled payments, for example the few countries that have not completely decoupled the old subsidy payments are allowed to offer VCS at up to 10% of their total funds and where justified may exceed this level. **Do you agree that any future Voluntary Coupled Support payments in Scotland should be limited to 5% of Scotland's national ceiling?**

*Agree*

The Commission also propose that up to 5% of the national ceiling can be used to make additional payments to eligible producers in Areas with Natural Constraints (formerly known as the LFA). Any ANC payments made under Pillar 1 would be deducted from ANC payments (LFASS) made under Pillar 2. The Commission's proposals allow for the funds for payments in Areas with Natural Constraints to be regionalised independently of Basic Payments. This means either that these payments could be regionalised whilst not regionalising the Basic Payment or that the payments could be regionalised according to different criteria to those applied when regionalising Basic Payment funds. **Do you agree that there should be the option of making payments to producers in Areas with Natural Constraints?**

*Agree*

The Commission also propose some optional measures of a more general nature that would allow funding to be moved from one CAP Pillar to the other. Previously, regulations only allowed modulation which was the movement of money from Pillar 1 to Pillar 2 to help support Rural Development programmes. Modulation in Scotland is currently 14% with payments under €5000 being exempt from compulsory modulation. In the Commission's draft Regulation a "Flexibility" provision would allow Scotland to transfer up to 10% (i.e. less than the current rate of transfer by modulation) of Pillar 1 direct support funding to Pillar 2. **Do you agree that there should be the option of transferring up to 10% of the Pillar 1 budget to Pillar 2?**

*Strongly agree*

The draft regulation also allows for the movement of funds in the opposite direction from Pillar 2 to Pillar 1 i.e. as a type of reverse modulation. This is only being considered in Member States, including the UK, where the average Pillar 1 rates are less than 90% of the European average Pillar 1 payment rate. Scotland could therefore choose to transfer up to 5% of Pillar 2 Rural Development funds to Pillar 1. This is estimated to allow a possible transfer of around €4.9m of European funding from Pillar 2 to Pillar 1. **Do you agree there should be an option to allow the transfer of up to 5% of Rural Development funds from Pillar 2 to Pillar 1 in countries where Pillar 1 payment rates are currently less than 90% of the European average rate?**

*Strongly disagree*

**Do you agree there should be an option to allow the transfer of up to 5% of Rural Development funds from Pillar 2 to Pillar 1 where Pillar 1 payment rates are currently less than 90% of the European average rate? Comment**

*Strongly disagree*

**Do you have any further questions you wish to make on this section?**

*LINK is supportive of additional payments for areas of natural constraint and would be happy to see these derived from Pillar 1 payments. However the mechanics of this may make it easier to pay this through regionally defined payments as part of the Basic Area Farm Payment rather than introducing a different payment system. As discussed above we believe the area payment system should compensate for climatic and environmental disadvantage and not reward the most fertile land by perpetuating a system of support based on long-ended historic production subsidies. If voluntary coupled support is used this should be targeted at High Nature Value farming and crofting systems.*

**This response was submitted by Jonathan Wordsworth on behalf of Scottish Environment LINK's Agriculture Task Force members as follows:**

**Archaeology Scotland  
National Trust for Scotland  
RSPB Scotland  
Scottish Wildlife Trust  
Woodland Trust Scotland**