



Hugh Townsend



> While none of the BPS greening rules will apply from 2021, there are still restrictions on the cultivation of 'semi-natural' permanent grassland, warns Hugh Townsend

Ben Birchall / PA

Familiarity with BPS scheme is key to avoiding its many pitfalls

THE English BPS claim window is to open on March 18. So now is a good time to remember just a few of the scheme's intricacies, both from its inception and from more recent changes.

Commons usage

It is well known that anyone with pannage or pasturage rights over any of the nation's commons, is entitled to claim the BPS payment on the common. The amount claimable is in proportion to the number of rights you hold. However, merely having the rights is not sufficient for making a claim.

The claimant must also be "using" the common. "Using" can mean a number of things, including grazing, working to maintain fencing or clear scrub, or claiming an agri-environment scheme on the common.

However, there is no rule about the extent to which the common is used, or when. This means that even turning a small number of stock out at the very end of the claim year is enough to meet the requirement, regardless of the number of rights

Hugh Townsend delves into the intricacies of the Basic Payment Scheme (BPS)

being claimed against.

Normally ineligible land uses

While the BPS is usually applicable only to arable land, "permanent crops" such as fruit orchards and grassland in grazeable condition, there is a specific set of circumstances in which other land uses can be claimed.

If land was claimed for the old Single Farm Payment in 2008 and is now under one of a number of land-based schemes, including Countryside Stewardship, the Woodland Carbon Fund and a handful of others, it may be eligible for the BPS even if the land use has since changed. In this way woodland, marshland, ungrazeable scrub and a variety of other land uses can be eligible for the scheme.

No greening rules but still rules for semi-natural permanent grassland None of the BPS greening rules will apply from 2021. This includes the

old rule giving Defra (Department for Environment, Food and Rural Affairs) powers to force the reinstatement of permanent pasture if the total area reduces in a given year. However, this does not by any measure mean that you are free to plough up your grassland fields.

In fact the main barrier to doing this - the Environmental Impact Assessment (Agriculture) Regulations (no 2) 2006 - remains very much in force. These mean that the Environment Agency must give a screening decision before ploughing can occur on any field considered "semi-natural" or on areas over two hectares, which have not been cultivated in the last 15 years. As well as a fine of up to £5,000, the Regulations are a Cross Compliance rule, so breaching them could also reduce your basic payment.

Changes after the deadline claim deadline

Claims submitted after the deadline,

on May 17, are subject to a 1% penalty for each day they are late up to June 11 this year. A variety of changes can be made to a claim without penalty, also up to June 11.

These changes are wide ranging and include the addition of new parcels and increases to the size of the claim. Therefore, if changes are anticipated and timing is tight, it will often be better to submit a claim within the deadline, then notify the Rural Payments Agency (RPA) of changes immediately afterwards.

"Notified errors" such as the reduction of a claim can be made at any time of year. However, so too can inspections by the RPA. Therefore, if you are unsure by the deadline of how much area you should claim, it is less risky to adjust down rather than up.

The Covid effect

In 2020, the deadlines for BPS claim submissions were substantially extended, from May 15 to June 15,

due to the Covid-19 pandemic. At the time of writing, it is unclear to what extent the current lockdown will have been lifted, if any, by the time the claim window opens. It is therefore equally unclear whether any similar extension of the claim period will occur for this year.

Even if the current rules remain in place, the Government may expect businesses to have adapted to the extent that an extension is no longer necessary. Therefore, a similar extension for 2021 cannot be assumed, and claimants should work towards the May 17 deadline.

In short, while the BPS is now a familiar scheme, it still has its share of complexity, both inbuilt and due to recent circumstances. All claims are different, and it is important to always be familiar with the scheme's rules to be sure to avoid its many pitfalls while making the best of its opportunities, even when the ground appears relatively simple.

■ **Hugh Townsend, FRICS, FAAV, FCI Arb. may be contacted on 01392 823935 or htownsend@townsend-charteredurveyors.co.uk**