iii) Intentional non-compliance: between 15 and 100% and possible exclusion from the scheme in the following year.

13. Modulation & financial discipline

- In addition to any reduction needed to keep overall payments within National Ceiling levels and reduction to fund the National Reserve, a farmer's annual payments are also reduced by modulation and financial discipline.
- Modulation transfers funds from direct aid schemes to Agri-environment and Rural Development Schemes (ie from Pillar I to Pillar II support).
- Separate EU and National modulation schemes apply in England.
- The first €5,000 of a farmer's annual Single Payment is exempt from EU (but not UK) modulation.
- The EU approved in 2007 for Member States to introduce National Voluntary Modulation, primarily at the request of the UK Government. England is one of only two Member States to have introduced this, thus raising the rate for their farmers.
- As part of the 2008 Health Check, the EU determined an increase in the rate of EU modulation – to 6% on 2009, and to 7% in 2010. However, where relevant (eg in England), this increase is to be offset by equivalent reductions in National Voluntary Modulation. The total rate will therefore remain as before.
- Financial discipline has not yet been applied, but may in future impose deductions in order to ensure that the CAP budget is not exceeded.
- Total modulation deductions from a farmer's annual Single Payment (above the first €5000) might therefore rise from 5% to 23%, as shown below.

- As from 2009, the EU has also introduced 'progressive modulation' whereby farmers claiming over €300,000 of annual Single Payment (after modulation) will be penalised by additional modulation of 4%. Where this threshold is breached, the increase will be offset by an equivalent reduction in National Voluntary Modulation so will have no effect in England.
- Under Article 68, Member States will be allowed to charge an additional rate of modulation – up to 10% – to be spent on measures relating to environmental schemes or the costs incurred in the event of a livestock disease outbreak. Prior to the 2008 Health Check, any additional funds raised under Article 68 had to be spent in the same sector from which they were generated, the typical example being the reduction of lowland beef payments to fund extra support for producers in Less Favoured Areas.

14. Transfers of entitlement

- It is possible to transfer entitlements by sale, gift, lease (with an equivalent area of land) or inheritance. Transfers can be accompanied by land or may be 'without land' transfers.
- Entitlements can only be transferred to another farmer within the same region, but from 2009 the transferor does not need to be a registered farmer at the date of transfer (but the transferee must be).
- In order to transfer entitlements, applicants must complete and submit form RLE1, which must be received by the RPA at least six weeks before the transfer is due to complete. This means that where entitlement is to be used in the year of transfer, then the latest date for receipt of the transfer form by the RPA will be 2 April in a particular scheme year, in order to ensure transfer by the 15 May (being the deadline date for the annual application).
- Although the RPA will not register the transfer of the entitlements until six weeks after date of receipt of application by them, the farmer can choose to specify a later date.

Modulation & financial discipline

Year	2005	2006	2007	2008	2009	2010	2011	2012
EU modulation	3%	4%	5%	5%	6%	7%	7%	7%
UK modulation	2%	6%	12%	13%	13%	12%	12%	12%
Financial Discipline	0%	0%	0%	0%	0%	2%	3%	4%
TOTAL	5%	10%	17%	18%	19%	21%	22%	23%

- Where entitlement is leased with land, the start date and length of the lease of land must be the same as that of the entitlement.
- Normal (formerly set-aside) entitlements and Normal (formerly National Reserve) entitlements can be transferred in the same way as other entitlements.

15. Agri-environment schemes

- Agri-environment schemes are administered by Natural England, which was formed on 1 October 2006 to replace the Rural Development Service, the Countryside Agency and English Nature.
- Land in a Countryside Stewardship Scheme (CSS), Environmentally Sensitive Areas Scheme (ESA), Entry Level Scheme (ELS), Organic Entry Level Scheme (OELS), or Higher Level Scheme (HLS) is eligible for Single Payment in addition to the annual management payments. Likewise Hill Farming Allowances (or their successor Uplands ELS) are made in addition to Single Payment.
- Existing CSS or ESA agreements will continue for their committed term unless agreement is reached with Natural England to surrender the agreement with land rolling over into a new HLS agreement that offers significantly more environmental benefit than the previous agreement.
- The ELS and OELS pay £30/ha and £60/ha respectively each year for five years. For OELS an additional conversion payment of £175/ha will be paid each year for the two-year conversion as long as such land remains in organic production for at least five years from the date of commencement of the agreement. ELS/OELS payments are claimable on the whole farm area – ie including woodland – subject to the farmer entering into Options to achieve a value of not less than 30 points/ha for ELS and 60 points/ha for OELS.
- The HLS is a discretionary scheme, which provides additional payments to farmers for implementing targeted annual management and capital works. It is not possible to combine HLS with CSS or ESA agreements, as HLS requires the entire holding first to be entered into ELS or OELS.

16. Cross Compliance: summary of GAEC rules

- GAEC1: Produce and implement the Soil Protection Review from 1 January 2007 and update during each calendar year thereafter.
- GAEC2: Post harvest management of land: ensure that any land from which a crop of cereals (other than maize), oilseeds or grain legumes has been harvested is either left in stubble over the following winter; has a new crop or green cover established; or is only primary cultivated until planting of the next crop (which must be drilled within ten days of final seedbed preparation unless this would result in a breach of other Cross Compliance rules).
- GAEC3: Do not carry out any mechanical field operations on waterlogged soil except for vegetable harvesting to meet contract deadlines. This restriction includes spreading slurry/manure.
- GAEC4: Do not burn crop residues (with minor exceptions – eg broken straw bales).
- GAEC5: Comply with the Environmental Impact Assessment Regulations (see section 17 below).
- GAEC6: Comply with existing rules for the protection and management of Sites of Special Scientific Interest (SSSIs).
- GAEC7: Comply with existing rules for the protection and management of scheduled monuments.
- GAEC8: Do not obstruct or disturb the surface of a public right of way (with minor exceptions for crop establishment). A farmer must also maintain any stiles or gates on a public right of way that are his responsibility.
- GAEC9: Do not overgraze natural or semi-natural vegetation, nor carry out unsuitable supplementary feeding in a way which will adversely affect the quality/diversity of the vegetation except for feeding during periods of extreme weather conditions.
- GAEC10: Observe the Heather and Grass (Burning) Regulations 1986, as amended 1987.
- GAEC11: Take all reasonable steps to prevent the spread of certain weeds, including thistle, dock, ragwort, rhododendron, Japanese knotweed, giant hogweed and Himalayan balsam.
- GAEC12: Maintain any uncropped land which is not in agricultural production in a condition such that it can readily be returned to agricultural production by the next growing season at the latest. A green cover must be established – except where a bare fallow is maintained for up to 15 months to control weed infestation. The vegetation on GAEC 12 land must be cut or grazed at least once every five years, with no more than 50% being cut/grazed in the fourth or fifth year. Cutting must not take place between 1 March and 31 July. The land cannot be used for non-farm vehicular use. Slurry/manure can be spread only in the two months prior to sowing a crop (but can be stored temporarily for subsequent use on that particular field). Land ceases to be subject to GAEC 12 rules as soon as preparations are made for a following crop (eg spraying with glyphosate or ploughing).
- GAEC13: Do not remove or damage stone walls without consent, nor remove stone from a wall except to widen a gap (max 10m) or to repair another (better) stone wall or a public footpath.
- GAEC14: A two-metre buffer zone must be maintained alongside hedges and watercourses, measured from the centre of the hedge or ditch, and extending at least one metre from the top of the bank of a watercourse. This buffer zone must not be cultivated, nor can fertilisers, herbicides, fungicides or pesticides be applied. Fields of two hectares or less are exempt from this obligation, as are new hedges planted after 1 January 2005 for the first five years of their existence.
- GAEC15: Do not trim hedgerows between 1 March and 31 July – unless dangerous, dead or obstructive to a public right of way. A derogation can be obtained to cut roadside hedges for safety reasons.
- GAEC16: Comply with felling licence requirements under the Forestry Act 1967.
- GAEC17: Comply with existing rules on Tree Preservation orders.

17. Nitrate Pollution Prevention Regulations 2008

- The new Nitrate Vulnerable Zone (NVZ) rules came into effect on 1 January 2009 and will have an impact on most farmers in England, with intensive livestock farmers being affected most. The regulations, which will be enforced by the Environment Agency, now cover 68% of farmland in England. A brief summary is given below, for more details visit www.defra.gov.uk.
- The total amount of nitrogen (N) from livestock manure applied on a holding in any calendar year must not exceed 170kg/ha averaged across the whole farm area (but it is possible to obtain a derogation from the EA to increase this to 250kg/ha in some cases).
- The total amount of N from livestock manure applied to individual fields in any calendar year must not exceed 250kg/ha.
- Anyone intending to spread N fertiliser must prepare a spreading plan for the season. The plan must be produced before the first application each year and must include field numbers, area and type of crop, soil type, previous crop, SNS, anticipated yield, optimum amount of N that should be spread.
- Before spreading any organic manure you must record the area on which manure will be spread, quantity to be spread, date of spreading, N content of manure.
- N max must be complied with. This limits the amount of N that can be applied to a particular crop based on yield potential and other factors. Details of N max can be found at defra.gov.uk.
- By 1 January 2010 a risk map must be produced for all holdings that spread organic manures. These maps must be updated within three months of any change.
- Closed periods now apply to all soils for organic manure with high available N, and artificial fertiliser.
- From 1 January 2012 livestock farmers must have sufficient storage capacity to store all slurry and poultry manure produced on the holding between 1 October and 1 March (1 October and 1 April for pigs and poultry). Storage facilities are not required for slurry sent off the holding for example to an anaerobic digester and slurry that can be spread on 'low run off risk' land during the storage period (provided that this is done in accordance with the restrictions on spreading-closed periods). Slurry stores must have in addition to the slurry, the capacity to store all rainwater, washings or any other liquid that enters the store.
- By 30 April 2009 (or 30 April 2010 for farms in new NVZs) you must have recorded the area of your farm, the volume of slurry and poultry manure that will be produced by the animals you anticipate will be kept in a building or on hardstanding during the five-month storage period, the storage capacity required to comply with the storage requirement, and the existing storage capacity on your farm.
- Before 30 April each year (from 2010 or 2011 for farms in new NVZs) you must have recorded the number and type of livestock kept on your farm in the previous year, and included details of how long they were housed and the amount of slurry produced. Additional records are needed to show the amount of N produced by livestock on the farm in the previous year, imported and exported manure, and dates when manure heaps were kept in fields.

Single Payment Facts 2009 – England

This briefing is a summary only of the relevant details as at the date of production. For full information please refer to the relevant DEFRA guidance handbooks.

1. Single Payment Entitlements

- Farmers will have been issued with an Entitlement Statement for the 2008 scheme year which can be used as the basis of a claim for 2009. Where entitlements have been transferred in or out or there are outstanding issues relating to the 2005 or subsequent scheme year then the Entitlement Statement may not reflect these changes.
- Entitlements have a particular individual value and must each be matched against an appropriate hectarage of land in order for the claimant to be eligible for their full Single Payment in any particular year.
- There are now only two different types of entitlements: Normal entitlements and Special entitlements (the latter generally apply only to very intensive livestock farmers).
- As part of the Health Check in 2008 set-aside and National Reserve entitlements were abolished and replaced with Normal entitlements. Authorised entitlements have also now been replaced by Normal entitlements. See sections 3-5 for more details.
- Entitlements have been allocated according to the region in England in which the land being claimed is located. There are three regions in England: SDA (Severely Disadvantaged Areas), SDA-moorland, and non-SDA (ie lowland). A farmer may only claim annual payments on land located in the region to which the entitlement relates.
- Entitlements can be transferred by sale, lease, gift or inheritance (see section 14).
- Entitlements must be claimed upon at least once every three years or they will be confiscated to the National Reserve. As from 2010 this requirement will change to once every two years.

2. The Annual Single Payment

- Farmers must submit claim form SP5 to activate their Single Payment entitlements for any year by 15 May that year.
- A farmer can claim on any land used for an agricultural activity, including for land used for permanent fruit, vegetable, or nursery crops, but excluding woodland.
- From 2005 to 2012, the Single Payment which the farmer receives each year will be based on a combination of 'Historic' and 'Regional Average' payments.
- The Historic element is based on the actual claims for arable crops and livestock, which the farmer submitted in the reference years 2000-2002 (or any alternative years agreed with RPA). It is also based on claims for Milk Quota held on 31 March 2005, and is a fixed and known figure for each farmer. It has since been introduced for sugar beet growers as well (see section 11).
- The Regional Average Payment (RAP) is based on the value of the total claims made in the reference period for the entire region, divided by the gross area claimed for the entire region.
- From 2005 to 2012 the Historic element is reducing and the Regional Average element is increasing as shown below:

Year	2005	2006	2007	2008	2009	2010	2011	2012
Historic element	90%	85%	70%	55%	40%	25%	10%	0%
Regional average element	10%	15%	30%	45%	60%	75%	90%	100%

- The payment is calculated in Euros and can be claimed either in € or £. If the farmer elects for payment in £, the Single Payment will be converted to £ based on the £/€ exchange rate on 30 September of the claim year. (For the 2008 scheme year the payment rate was £0.7903/€).
- Scheme rules are that payment must be made between 1 December and 30 June following the claim.
- To be eligible to claim, a farmer must:
- be producing agricultural commodities or maintaining land in good agricultural and environmental condition (GAEC);
- have the claimed land at his disposal on 15 May of the claim year (see section 8);
- meet all Cross Compliance rules on all agricultural land on the holding for the entire year (see section 16);
- not use the land for non-agricultural purposes (unless subject to the exemptions see section 7).

3. Set-aside

- From 1 January 2009 there is no longer a requirement to set-aside land, unless you have included set-aside options in an ELS or HLS scheme, in which case sufficient set-aside must be provided to meet the relevant option requirements.
- Set-aside entitlements have been converted to 'Normal; formerly set-aside' entitlements, and can be claimed on any land eligible for Single Payment.
- The payment rate for these entitlements will continue to be at the Regional Average rate appertaining to the year in question only. (The Historic element was allocated to non set-aside entitlements).
- Set-aside management rules no longer apply and fallow land must be included on claim forms as OT2 or OT1 (if in preparation for a following crop) or as TG1 (if it is grassland).

4. National reserve entitlements

- National Reserve entitlements have been converted to 'Normal; formerly National Reserve' entitlements for the 2009 scheme year. The values will not change, but the conversion removes the usage and transfer restrictions that previously applied to National Reserve entitlements. There is now no need to activate the former National Reserve entitlements each year to avoid the top-up element being lost to the National Reserve, and these entitlements can now be transferred in the same way as normal entitlements.

5. Previously unsupported crops – fruit, sugar beet, vegetables, potatoes & permanent crops

- From 2008, land under annual crops of fruit, vegetables or potatoes can be claimed upon in the same way as other crops.
- From 2009, permanent crops of fruit, vegetables, nursery crops and vines can also be claimed on. These crops include the following (grown outside; or on soil in greenhouses; or in polytunnels): apples, pears, cherries, plums, sloes and quinces; mint and rosemary; nuts; vine and rootstock nurseries; fruit tree nurseries; ornamental nurseries; commercial forest tree nurseries (excluding Christmas trees) and vines.
- Growers of the above crops were able to apply for an allocation of new entitlements for first use in 2010, meaning that they did not have to purchase or lease entitlements in order to claim.

6. Permanent pasture

- Permanent pasture is land which has been used to grow grasses or other herbaceous forage (eg kale, lucerne, clover, but not forage maize), whether occurring naturally or through cultivation, which has not been included in a crop rotation for five years or longer. If the land has been re-seeded with grasses or other herbaceous forage during that five-year period, then it still counts as permanent pasture.
- Land which had been in set-aside with the same green cover for more than five years was classified as arable land, and not as permanent pasture. However, if this land remains in the same green cover in future – now that there is no set-aside – it will become classified as permanent pasture after five years.
- Land used to create agri-environmental scheme options such as field corners, buffer strips and beetle banks is not considered permanent pasture even if it appears to meet the permanent pasture requirements.
- A farmer is allowed to plough up permanent pasture, subject to the Environmental Impact Assessment Regulations. However if the national area of permanent pasture as a proportion of arable land falls below 95% of 2003 levels, such farmers may be required to return arable land to pasture.

7. Land not in agricultural production

- Farmland which is not cropped will be classified as 'land not wholly in agricultural production'. Such land will be subject in particular to the Cross Compliance GAEC 12 rules (see 16 below) – as well as other relevant Cross Compliance rules.
- It is possible to claim on land which is not used all year for agricultural purposes providing the use is one of those listed below and the frequency is restricted to 28 days or less in each calendar year. Such permissible activities are clay shooting, car boot sales, car parking, country fairs, farm sales, equestrian activities, ballooning, festivals, scout & guide camps, TV locations, caravan sites, motor sports and grass airstrips. If the land is used for one of these activities for more than 28 days during the year it cannot be claimed against.

8. Land at your disposal

- Land used to activate entitlements must be at the farmer's disposal on 15 May of the scheme year. The requirement to satisfy Cross Compliance continues for the whole of the calendar year and the claimant is liable for any breaches of Cross Compliance during the year, even if the land is not occupied by him for the year.

9. Protein & energy crops

- Protein crops (peas, beans and lupins) are eligible for a premium of €55.57/ha, subject to an EU maximum guaranteed area of 1.6 million hectares. The protein crop premium is to be withdrawn, probably from 2012.
- Energy crops are eligible for a premium of €45/ha, subject to an EU maximum guaranteed area of two million hectares. It is payable on crops used for transport fuel, heating and electricity generation. The energy crop premium will be withdrawn in 2010 (2009 is the last year of claim for this).

10. Dairy

- For dairy farms, the value of the dairy premium, which was calculated based on the Milk Quota registered in their name on 31 March 2005, has now been incorporated into the Single Payment as part of their Historic claim base.
- From 2006, this payment rate became €35.50/T and will remain at this rate in future years. (However the value of the total Historic element is gradually declining, as explained in section 2).
- The 'dairy premium' element of a farmer's Historic claim base continues to apply even if the farmer has ceased dairy farming (as the Single Payment is a decoupled payment).
- Milk Quotas continue (and are a separate asset, not related to Single Payment). Under the 2008 Health Check, a farmer's Milk Quota allocation is to be increased by 1% per annum over the next five years, but Milk Quotas are then likely to be withdrawn by 2015.

11. The sugar regime

- The European sugar regime was reviewed in 2006 with a reduction in sugar prices and the introduction of direct aid payments for producers.
- In England the sugar aid payments were incorporated into the Single Payment with effect from the 2006 scheme year based on the growers contract tonnage for the 2005/6 marketing year.
- From 2006, the aid is paid as an addition to the grower's historic reference amount and therefore now also forms part of the RAP for such producers.
- The amount of aid for 2009 is likely to be about €9-10 per tonne of 2005/06 contract, falling to €3 for 2010, €1 for 2011 and zero for 2012. These figures are subject to modulation and other deductions.
- It is estimated that this will increase entitlement value for all farmers by about €14/ha by 2012.

12. Cross compliance

- Payment of Single Payment, other direct payments (eg protein/energy crop premium) and Environmental Stewardship is conditional on meeting the Cross Compliance conditions and on keeping land in Good Agricultural and Environmental Condition (GAEC) (see section 16).
- Cross Compliance applies to the whole year and responsibility for the full year rests with the claimant on 15 May. It applies to all of the agricultural land on the holding, not just that on which Single Payment is claimed.
- Where land is no longer in agricultural use the Cross Compliance requirements can be avoided by crossing such fields from the 2009 Single Payment claim or by using crop code NA1.
- All agricultural land must be maintained in Good Agricultural and Environmental Condition in accordance with GAEC rules 1-17 (see section 16).
- The farmer must also comply with 18 existing EC directives/regulations – the Statutory Management Requirements (SMRs), which cover aspects of environmental and public health, animal and plant health, food safety, livestock identification and animal welfare.
- Grazing by horses is permitted as an agricultural activity, so long as the land is not being used for a non-agricultural purpose. Some non-agricultural purposes however are permitted up to a 28-day limit, (see section 7)
- 5% of farms are inspected annually to check compliance. These are targeted randomly although risk is used as a means of selection.
- Penalties for non compliance are:

i) Negligence: normally 3% of payment, but range from one to 5% depending on the seriousness of the breach.
ii) Repeated non-compliance: up to 100% of payments (if repeated four times in three years)