

IMPORTANT NOTE

This consolidated version of the Agricultural Development Scheme 2019 [SD 2019/0466] has been prepared for information purposes only. While every reasonable effort has been made to ensure the changes have been properly incorporated it cannot be guaranteed that it is free of errors.

This document includes the amendments made by –

- Agricultural Development and Coronavirus Fisheries Industry Support (Amendment) Scheme 2020 [SD 2020/0290]

The text additions are in **GREEN TEXT** and omissions in ~~RED TEXT~~ for ease of reference.



AGRICULTURAL DEVELOPMENT SCHEME 2019

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Statutory Document No. 2019/0466



Financial Provisions and Currency Act 2011

AGRICULTURAL DEVELOPMENT SCHEME 2019

Approved by Tynwald: 10 December 2019
Coming into Operation: 1 April 2020

The Department of Environment, Food and Agriculture, with the concurrence of the Treasury¹, makes the following Scheme under section 3 of the Financial Provisions and Currency Act 2011.

1 Title

This Scheme is the Agricultural Development Scheme 2019.

2 Commencement

If approved by Tynwald, this Scheme comes into operation on 1 April 2020².

3 Interpretation

In this Scheme, unless the context requires otherwise, —

“**above the Mountain Line**” or “**AML**” means all land of mountain moorland character that is at or above 200 metres altitude, plus land below 200 metres altitude, which has the same characteristics and which is contiguous with land of mountain moorland character above 200 metres or non-contiguous areas exceeding 50 acres below the 200 metre contour but of mountain moorland character. Land will be classified in accordance with the Land Classification Policy;

“**active farmer**” means activity as defined by Government Circular ‘Definition of Active Farmer’³ as amended from time to time;

“**aerial survey**” means the aerial photographs taken on the Isle of Man in 2012 that are held as part of the MannGIS database maintained by the Cabinet Office;

¹ Treasury concurrence required under section 3(2)(b) of the Financial Provisions and Currency Act 2011.

² Tynwald approval is required under section 3(7) of the Financial Provisions and Currency Act 2011.

³ GC 15/08.

“**agriculture**” means the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes or maintaining land in good agricultural condition;

“**application**” means an application for payment under the Scheme and “**applicant**” is construed accordingly;

“**application period**” means the period from 1 April to 11 May in each Scheme year;

“**area payment**” means a payment by the Department to an applicant in any Scheme Year for eligible land;

“**authorised person**” means a person, whether or not an officer of the Department, authorised by the Department, either generally or specifically to act in matters arising under this Scheme;

“**below the Mountain Line**” or “**BML**” means agriculturally improved land plus areas of enclosed improved or semi-improved grassland which cover more than 10 acres but which are surrounded by land of mountain moorland character. Land contiguous with that of mountain moorland character which has 50% or more improved or semi-improved grassland or where liming or fertilising has had a significant impact on the vegetation will also be classified as Below the Mountain Line. Areas below the 200 metre contour but of mountain moorland character and less than 50 acres in extent will be considered to be Below the Mountain Line;

“**control**”, in the context of a young farmer means –

- (a) the individual making the application must be directly exposed to (or at risk of) personal financial benefit or harm resulting from success or failure of the business. A majority of shares and votes will give ‘control’ over the business;
- (b) that more than one person can ‘control’ the business if –
 - (i) there is a formal agreement between them to vote together, giving them the majority of the business votes and shares;
or
 - (ii) they jointly own shares, giving them overall majority control,

but does not include organisations which do not expose the individuals directing the business to the risk detailed in sub-paragraph (a), such as charities, trusts and public bodies;

“**Cross Compliance Standards Guidance Document**” means the Government Circular of that name⁴ as published by the Department and amended

⁴ GC 62/08.

from time to time that sets out the Cross Compliance Standards and associated guidance on applying those standards;

“**Cross Compliance Penalty Document**” means the Government Circular of that name⁵ as published by the Department and amended from time to time that sets out the penalties for failing to meet the Cross Compliance Standards;

“**Department**” means the Department of Environment, Food and Agriculture;

“**disposal**”, in relation to land at the applicants disposal, means land for which the applicant can provide a legal undertaking to manage in compliance with the conditions defined in this Scheme including the Cross Compliance Standards Guidance Document;

“**eligible applicant**” means a person who is eligible to apply for a grant under this Scheme by virtue of paragraph 5;

“**eligible land**” means an area of land as defined in the Land Classification Policy and meeting the standards specified in the Cross Compliance Standards Guidance Document;

“**Field Gazetteer Database**” means a computer record of land maps used in conjunction with photographs obtained from the aerial survey that indicates field boundaries and the allocated numbers for those fields that is referred to by the Department when considering applications under this Scheme;

“**Land Classification Policy**” means the Government Circular of that name⁶ as published by the Department and amended from time to time that sets out the Department’s policy for classifying land;

“**Scheme year**” means 1 April each year to 31 March the following year; and

“**young farmer**” means someone who –

- (a) meets the conditions for eligibility under this Scheme (paragraph 5);
- (b) is at least 18 years old but who has not reached his or her 41st birthday or will not reach that birthday in the Scheme year in which the application is made; and
- (c) took control of the farm business within the 5 year period before his or her first application under paragraph 6 (applications) or under the Agricultural Development Scheme 2015⁷.

4 Objective of the Scheme

The objective of this Scheme is to provide grants to eligible applicants to –

⁵ GC 61/08.

⁶ GC 64/08.

⁷ GC 2015/0004.

- (a) require compliance with Cross Compliance Standards Guidance Document;
- (b) mitigate any disadvantage caused by the application of the Countryside Care Scheme⁸; and
- (c) assist young farmers to undertake agriculture.

PART 2 – CONDITIONS FOR ELIGIBILITY AND APPLICATIONS

5 Conditions for eligibility under this Scheme

- (1) To be eligible under this Scheme the following must apply (subject to sub-paragraphs (2) and (3)) –
 - (a) from 1 April 2020 an applicant must be an active farmer;
 - (b) an applicant must have at the applicant's disposal, on 4 May in each Scheme year, the eligible land which is subject to the application;
 - (c) all land in the Isle of Man at the applicant's disposal on the 4 May in each Scheme year must be declared by means of a valid application, regardless of the eligibility of such land;
 - (d) an applicant under the Scheme must make an application to the Scheme in such form and timescale as the Department may require;
 - (e) the land must consist of at least the minimum area of 12.5 acres of eligible land; and
 - (f) the Department is satisfied on reasonable grounds that the land which is the subject of the application is not materially altered from that indicated in the aerial survey.
- (2) Any land which has been the subject of an application in any Scheme year must be maintained in that condition for any future applications.
- (3) Sub-paragraphs (1)(f) and (2) do not apply in relation to applications made where –
 - (a) works approval from the Department or planning permission has been granted; or
 - (b) works are undertaken to the satisfaction of the Department which ameliorate any unauthorised alterations which have taken place.

6 Applications

- (1) Applications must be –

⁸ GC 59/08 as amended by GC 040/10, GC 0003/12 and GC 2014/0013.

- (a) submitted to the Department within the application period;
 - (b) set out in such form as the Department may from time to time require; and
 - (c) accompanied by such details and information relating to the application as the Department requires.
- (2) Applications submitted to the Department after the application period, that meet the requirements of sub-paragraphs ~~1(a) and (b)~~ 1(b) and (c)ⁱ above, may be considered by the Department subject to paragraph 7 (late applications).
- (3) Applications may be made by –
- (a) an individual; or
 - (b) an individual on behalf of a partnership or body corporate.
- (4) An application must not be accepted by the Department unless it will result in a payment of £250 or more.
- (5) The Department may –
- (a) reject an application where it believes there is an artificial separation of business interests undertaken to enhance the payments that may be granted under this Scheme or improve the eligibility of an application; and
 - (b) request further details and information to be supplied when considering an application.

7 Late applications

- (1) Applications received after the end of the application period are subject to the imposition of a penalty consisting of a reduction of 1% in eligible payment for each day by which the application was submitted after the application period, up to a maximum of 28 days.
- (2) An application received after the additional 28 day period will not be eligible for payment under this Scheme.
- (3) Penalties for late submission may be adjusted and applications accepted after the application period ends if the Department is satisfied that circumstances beyond the control of the applicant prevented an application being submitted within the application period. Reasons for any delays must be notified to the Department in advance of the application period ending wherever possible.

8 Incomplete applications

- (1) Where an applicant has submitted an incomplete application the Department may notify the applicant of the outstanding information required to progress the application.

- (2) The outstanding information mentioned in sub-paragraph (1) must be provided to the Department within 10 working days from the date of the written request being posted to the applicant.
- (3) Failure to comply with sub-paragraph (2) will result in the application being invalid.
- (4) Any subsequent or replacement application will be subject to a late application penalty under paragraph 7.
- (5) Despite sub-paragraph (4), a penalty may be adjusted as provided for in paragraph 7(3) (late applications).

PART 3 – ENTRY AND INSPECTION

9 Obligation to permit entry and inspection for the purposes of the Scheme

- (1) An applicant must permit any authorised person, accompanied by such other persons acting under the authorised person's instructions as appear to that authorised person to be necessary for the purpose, at all reasonable times and on production of evidence of authorised person's authority, if so required, to enter upon any part of the applicant's land for the purposes of –
 - (a) inspecting all or any part of the land whether or not the land is farmed and which forms part of the application or is at the applicant's disposal;
 - (b) ascertaining whether the applicant has duly complied with any undertaking given by the applicant under this Scheme; or
 - (c) determining the classification of land to which the application relates.
- (2) An applicant must render all reasonable assistance to an authorised person in relation to the matters mentioned in sub-paragraph (1) and in particular must, at the request of an authorised person, accompany the authorised person in making an inspection of any land and identify any area of land to which the applicant's application or undertaking relates.

PART 4 – WITHHOLDING PAYMENTS, PENALTIES, REVIEWS AND APPEALS

10 Penalties for failure to meet Cross Compliance Standards Guidance Document

- (1) Where an applicant fails to meet the conditions specified in the Cross Compliance Standards Guidance Document, the penalties stipulated in the Cross Compliance Penalty Document must be applied.
- (2) The Department may disapply any such conditions and the associated penalties where it considers there to be exceptional circumstances.
- (3) Any disapplication under sub-paragraph (2) must be applied to all Scheme applicants.
- (4) A potential applicant who materially alters the nature of land at the potential applicant's disposal in the period between the approval of the Scheme by Tynwald and its commencement, and does so with the intention of increasing the potential applicant's area of eligible land or altering the classification of land, may have penalties applied to any future application under the Scheme, as set out in paragraph 8 of the Land Classification Policy.

11 Withholding and recovery of payments, termination and exclusion

- (1) Where any applicant, with a view to obtaining a payment under this Scheme for the applicant or any other person, makes any statement or furnishes any information which is false or misleading in a material respect, the Department may withhold the whole or any part of any payment to that person or to that other person and may recover the whole or any part of any such payment already made to that person or to that other person.
- (2) Where an applicant fails, without reasonable excuse, to permit entry and inspection by an authorised person or to render all reasonable assistance to such authorised person as required by paragraph 9, the Department may withhold the whole or any part of any payment to that applicant and may recover the whole or any part of any payment already made to them.
- (3) Where the amount of land declared to be at the disposal of the applicant is found to be different from that declared to the Department, the penalties specified in Schedule 1 must be applied.
- (4) Despite sub-paragraph (3), penalties may be waived in the event of multiple declarations of the same land, provided the status of the land is resolved to the satisfaction of the Department before the end of the Scheme year in which the declarations were made.

- (5) Where the Department takes any steps specified in sub-paragraph (1) or (2) it may also treat as terminated any entitlement of the applicant to any payment or any part payment under this Scheme.
- (6) In the event of land being the subject of an application by more than one applicant the Department may disclose details of the duplication to all applicants involved in order to allow all concerned to resolve the position to the satisfaction of the Department.
- (7) The Department must give notice in writing to the applicant of any decision under this paragraph.

12 Appeals

- (1) An applicant may, within 60 days of the date of notification of a decision under this Scheme, request in writing that the Department review the decision, stating the grounds on which the review is requested.
- (2) In the first instance, the application will be reviewed by an officer of the Department who has had no involvement in the original application – (“a Stage 1 appeal”).
- (3) Stage 1 appeal decisions must be made and notified to the applicant within 30 days of the appeal being received by the Department.
- (4) Within 60 days of the date of notification of a decision of a Stage 1 appeal, if the applicant considers that the grounds for appeal have not been addressed, the applicant may apply in writing to the Department requesting that the matter be referred to the Agricultural Development Scheme Appeals Committee (“the Committee”) – (“a Stage 2 appeal”).
- (5) A Stage 2 appeal must be completed for referral to the Minister within 90 days from the date that the Stage 2 appeal is received.
- (6) Applicants may opt to have either a written or oral Stage 2 appeal.
- (7) In the case of a written appeal, the appeal request document and all other relevant paperwork must be considered by the Committee. The appellant must be sent all the paperwork to be considered by the Committee in advance of the meeting but must not attend in person.
- (8) In the case of an oral appeal, the appellant must receive all the paperwork to be considered by the Committee in advance of the meeting and must be invited to attend part of the meeting. Applicants may be accompanied and may wish to appoint someone to represent them. The applicant or their representative must be able to present the applicant’s case and respond to questions from the Committee. Once the presentation and questions have been completed, the applicant and anyone accompanying the applicant or appointed to represent the applicant, must leave the meeting for the Committee to deliberate on the matter.

- (9) The Committee must reach a recommendation which must be sent to the Minister of the Department for consideration and final decision. The Minister must make a decision within 28 days from receipt of the Committee's recommendation. Where the complexity of an appeal means the Committee requires a further period of consideration, the appellant must be notified in writing.
- (10) The Department must provide written notification of the Minister's decision within 28 working days of the date of that decision being made.
- (11) Information on the decision must be publicised in such manner as the Department thinks fit. Requests for further information on the decision must be made in writing to the Chair of the Committee. The information provided in both cases must be restricted to the basis of the appeal, the criteria used by the Committee in making the decision and the decision itself.
- (12) For the purposes of this Scheme, the Committee must be convened by the Department as required and must consist of —
 - (a) an industry representative,
 - (b) a Department representative who has not been involved in either the original decision or the Stage 1 Appeal; and
 - (c) an independent person who has appropriate knowledge of the subject area.
- (13) The Department must seek nominees to the Committee and maintain a list of those nominees along with a reference to the nominee's particular area of expertise. This list must be available for inspection upon request.
- (14) The Committee dealing with appeals must —
 - (a) work within the parameters of the Scheme;
 - (b) not award compensation; and
 - (c) make objective and evidenced recommendations in line with the Scheme specifications.

13 Appeal fees

- (1) An application for an appeal submitted in accordance with paragraph 12 must be accompanied by the relevant fee as specified in the Agricultural Development Scheme (Appeal Fees) Order 2019⁹.
- (2) Any fee paid must be refunded where an appeal is successful.

⁹ SD 2019/0468.

PART 5 – BUDGET PROVISION AND PAYMENTS UNDER THE SCHEME

14 Budget for the Scheme

- (1) The Department must establish with the Treasury a budget for the annual combined operation of this Scheme and the Pig Premium Scheme 2018¹⁰.
- (2) Despite sub-paragraph (1), the Department may transfer monies from the established budget to fund other schemes, grants, programmes and subventions relating to food production and/or food processing.

15 Payments Schedule

- (1) In any Scheme year the Department must make payments due under this Scheme in at least 3 instalments.
- (2) The Department must endeavour to make a payment of 50% of the applicant's estimated payment before the end of July each year and a further 25% by the end of October that year **save that there is no obligation upon the Department to make such payment where any conditions to determine eligibility for this Scheme in accordance with paragraph 5 have not been verified by the Departmentⁱⁱ.**
- (3) A final balancing payment must be made no later than the end of April in the following year, which must take account of all known penalties, modulations and unpaid funds.
- (4) Penalties contained in Schedule 1 may be applied to any payment under this Scheme.

16 Recovery of other amounts due to the Department

The Department may recover from any applicant by way of a deduction from any sum payable under this Scheme any amount due by that person to the Department.

17 Flat rate area payments

- (1) A common flat rate area payment must be made for each acre of eligible land entered into the Scheme as stated in Schedule 2.
- (2) The Department may redistribute the flat rate payment (this is known as 'front loading') by deducting a percentage of the common flat rate payment from all eligible BML acres and reapplying this amount to a defined number of eligible BML acres for each applicant as stated under Schedule 2.

¹⁰ SD 2018/0019.

18 Supplementary payments to young farmers

- (1) An eligible applicant may also be eligible for young farmer supplementary payment (“YFS payment”) if they also meet the definition of a “young farmer”. That YFS payment may be either –
 - (a) 25% of the appropriate full flat-rate payment up to a maximum of 195 acres; or
 - (b) £4,000,whichever is the lesser amount.
- (2) A YFS payment may only be payable for a maximum of 5 consecutive years. Any YFS payment made under this Scheme or the Agricultural Development Scheme 2015 counts towards this period.
- (3) Despite paragraph (2), YFS payments in any Scheme year to young farmers must not exceed 2% of the Scheme budget. In the event of the cap being reached, all YFS payments must be adjusted pro-rata to stay within this budget.
- (4) An application must not be accepted where the Department reasonably believes that the conditions attached to the application have been artificially created with a view to obtaining an advantage contrary to the objectives of the Scheme.

PART 6 – OFFENCES

19 Offences

It is an offence for an applicant to furnish false, incomplete or misleading information in connection with an application under this Scheme.

Maximum penalty (summary) – 6 months custody and a fine not exceeding level 5 on the standard scale.

PART 7 – REVOCATION

20 Revocation

The Agricultural Development Scheme 2015¹¹ is revoked.

¹¹ GC 2015/0004.

MADE 13 NOVEMBER 2019

GEOFFREY BOOT

Minister for Environment, Food and Agriculture



SCHEDULE 1

[Paragraph 11(3)]

PENALTIES FOR MIS-DECLARATION OF LAND

1 Penalties for the over or under declaration of land at the applicants disposal (total of eligible and ineligible land)

Area mis-declared	Penalty
Less than 3% and not exceeding 3 acres.	No penalty.
3% to 20% or more than 3 acres.	1% reduction in the total payment.
More than 20% and not exceeding 50%.	5% reduction in the total payment.
More than 50%.	10% reduction in the total payment.

2 Penalties for over declaration of eligible land

Applicants must have sufficient eligible land to cover all entitlement on area payments applied for in the application.

Area mis-declared	Penalty
Less than 3% and not exceeding 2 acres	No additional penalty (payment reduction only to ensure correct payment)
More than 3% or more than 2 acres	A penalty amounting to twice that of the value of the area applied for in the application, up to a maximum of 100% in the Scheme year.

3 Penalties for under declaration of eligible land

Area mis-declared	Penalty
More than 10%	½ of the value of the under declared area (i.e. if the eligible area was under declared by 20% the penalty would be 10% of total payments).

4 Application of penalties

The penalties set out in paragraphs 1 to 3 of this Schedule are applied on a whole farm basis, with over and under declarations on specific fields being netted against each other.

SCHEDULE 2

[Paragraph 17(1)]

PAYMENT CALCULATIONS

1 Transfer to flat rate area payments and front loading (redistributive payments)

- (1) Table 1 details the maximum flat rate area payment and the front loading that may be applied to BML only.
- (2) Front loading is a redistribution mechanism on the flat rate element of the payment, where an amount is taken off all acres and 'front loaded' onto the first acres of all applications for BML.
- (3) Should the front loading payment exceed 15.5% of the total flat rate area payment it must be reduced pro rata to 15.5%.

Table 1.				
Scheme year	Maximum flat rate area payment		Front loading, applicable to BML only	
	BML	AML	First 130 acres	Next 65 acres
2020-21	£69.08	£8.21	£10.71	£5.35
2021-22	£64.52	£8.21	£10.00	£5.00
2022-onwards	£64.52	£8.21	£10.00	£5.00

Table 1.				
Scheme year	Maximum flat rate area payment		Front loading, applicable to BML only	
	BML	AML	First 130 acres	Next 65 acres
2020-21	£78.20	£13.03	£12.00	£6.00
2021-22	£64.52	£8.21	£10.00	£5.00
2022-onwards	£64.52	£8.21	£10.00	£5.00

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2 Young Farmer Supplementary Payment

- (1) Applicants qualifying for the YFS payment will receive a supplementary payment of 25% of the appropriate full flat rate payment for a maximum of 195 acres or £4,000, whichever is the lesser amount.
- (2) Payments will be calculated in accordance with Table 2 below.

Table 2: YFS payment			
Scheme year	BML rate £ per acre	AML rate £ per acre	Maximum payment
2020 and	£19.55	£3.26	£4,000.00



thereafter			
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EXPLANATORY NOTE

(This note is not part of the Scheme)

This Scheme is promoted by the Department of Environment, Food and Agriculture and replaces the Agricultural Development Scheme 2015 [GC 2015/004].

The objective of this Scheme is to create a credible, practical and effective decoupled support Scheme as the foundation for a thriving, diverse Manx agricultural industry whilst protecting the Isle of Man's landscape and natural heritage and maintaining its productive capacity.

As per the Agricultural Development Scheme 2015, this Scheme continues to be voluntary and requires farmers to comply with a set of countryside and agricultural management standards (known as Cross Compliance Standards) in order to qualify for support payments.

Part 1 establishes the aims of the Scheme, its start date and interpretations used within the document.

Part 2 establishes the conditions of eligibility for payment under the Scheme, such as the application process, minimum amount for which an application can be made and area size, the requirement to meet Cross Compliance Standards and associated penalties.

Part 3 establishes the obligation for applicants to permit inspection by authorised persons.

Part 4 establishes the Department's ability to withhold or recover funds and for applicants to appeal against the Department's decisions.

Part 5 establishes a fixed budget for the Scheme and the criteria for payments.

Provision to assist young farmers to undertake activity in the industry is also included where additional payments may be made up to 25% of the full acreage rate (to a maximum of 195 acres) or £4,000, whichever is the greater. The overall amount available for young farmers each Scheme year is to be capped at no more than 2% of the budget.

Part 6 makes it an offence to furnish false, incomplete or misleading information in connection with an application the maximum penalty for which, on summary conviction, is term in custody not exceeding 6 months and a fine not exceeding level 5 on the standard scale.

Part 7 revokes the Agricultural Development Scheme 2015.

Schedule 1 contains provision for calculating penalties.

Schedule 2 sets out the calculations for additional sums payable with flat rate area payments and concerns the redistribution of payments which is referred to as ‘front loading’.

ⁱ Inserted by SD 2020/0290.

ⁱⁱ Inserted by SD 2020/0290.

ⁱⁱⁱ Substituted by SD 2020/0290.