

Environmental Farming Scheme (EFS) Higher Level Terms and Conditions

Commencement Date 01 January 2022

These Terms and Conditions are for EFS agreements commencing 01 January 2022.

For Terms and Conditions for EFS Agreements commencing in earlier years please see [EFS Higher Terms and Conditions](#)

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Department of
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Contents		Page No.
1.	<u>Introduction</u>	2
2.	<u>Issues and requirements</u>	3
3.	<u>Payments</u>	3
4.	<u>Eligibility for participation in the Scheme</u>	5
5.	<u>Upper and lower limits of EFS (H) permitted</u>	7
6.	<u>EFS Stand-alone Options</u>	7
7.	<u>Record keeping</u>	9
8.	<u>Training courses</u>	10
9.	<u>Consents and permissions</u>	10
10.	<u>EFS (H) and BPS/ANC Scheme eligibility</u>	10
11.	<u>Dual Use Claims</u>	11
12.	<u>EFS (H) and Greening / Ecological Focus Areas</u>	11
13.	<u>EFS (H) Claim</u>	12
14.	<u>Verifying Scheme compliance</u>	15
15.	<u>Non-Compliance</u>	17
16.	<u>Amendments to and withdrawal from EFS(H)</u>	17
17.	<u>Force Majeure and exceptional circumstances</u>	20
18.	<u>Review of decisions</u>	20
19.	<u>Complaints procedure</u>	21
20.	<u>EU Regulations governing EFS(H)</u>	20
APPENDICES		
<u>Appendix A</u>	Common Land Rules and Group Penalties	22
<u>Appendix B</u>	Example invoice	26
<u>Appendix C</u>	Example receipt / receipted invoice	27
<u>Appendix D</u>	EFS Penalties	28
<u>Appendix E</u>	Glossary of Terms	51
<u>Appendix F</u>	Abbreviations	54
<u>Appendix G</u>	Contact Details	55
<u>Appendix H</u>	DAERA Privacy Statement	56

Environmental Farming Scheme (EFS) (Higher Level) Terms and Conditions

1. Introduction

- 1.1 These 'Terms and Conditions' apply to the Environmental Farming Scheme Higher Level (EFS(H)), which have been drawn up in accordance with Regulation (EU) No. 1305/2013 and The Rural Development Programme Regulations (Northern Ireland) 2015. They should be read in conjunction with the details of EFS (H) as set out in the Agreement Document and any supporting documentation referred to in the Agreement Document. The 'Terms and Conditions', the Agreement Document and any supporting documentation referred to in the Agreement Document form the contract between Department of Agriculture, Environment and Rural Affairs (DAERA) (the Authority) and the Agreement holder.
- 1.2 More detailed guidance and information on individual EFS (H) Options and Non - Productive Investments (NPIs), which are referred to as Capital Items in this document, is available on the DAERA website (www.daera-ni.gov.uk). It is the Agreement holder's responsibility to consider carefully all the information available to comply with the 'Terms and Conditions' of the Scheme and the 'Requirements and Controls' for individual EFS Options and Capital Items.
- 1.3 In the event of any conflict between these Terms and Conditions and the documents referred to above, the Terms and Conditions shall prevail.
- 1.4 In the event that there are any changes to these Terms and Conditions, they will be publicised on the DAERA website (www.daera-ni.gov.uk).
- 1.5 There is a suite of Management Options and Capital Items. Management Options may be a combination of essential Capital Items, to establish the Option, and recurring annual management requirements, to ensure successful establishment, retention and maintenance of the Option.
- 1.6 There are also a suite of Additional Capital Items to complement certain EFS Management Options. These may be required to meet the requirements of a site specific Remedial Management Plan (ssRMP). These must be included in the ssRMP (see Section 2). Payment for the Additional Capital Items is additional to the Option payment rate.

2. Issues and requirements

- 2.1. The EFS is a voluntary Scheme. EFS (H) agreements shall run for five consecutive years.
- 2.2 An Agreement holder must keep and maintain records for all works carried out under the Scheme (see Section 7, Record Keeping).
- 2.3 The Agreement holder must complete the approved area/length/units for all EFS Options and Capital Items to the standards set out in the ssRMP and the 'Requirements and Controls' within the Information Sheets and, where applicable, the EFS Specialist Plan pertaining to the Business ID.
- 2.4 The Agreement Holder must complete the required training relevant to their EFS Agreement prior to payment. Training should be completed before carrying out the works. However if training is incomplete by 31 December in first year of the agreement, agreements will be cancelled.
- 2.5 The Agreement holder must retain management control (see Section 4.2 for details) and maintain the approved area/length/unit for the duration of the EFS (H) Agreement as stipulated in the EFS (H) ssRMP, the 'Requirements and Controls' within the Information Sheets and, where applicable, the EFS Specialist Plan. General field operations or any management activities, outside of those listed in the ssRMP, EFS Information Sheets and EFS Specialist Plan, that could reduce the benefit of the Option, must not be undertaken as these may be detrimental to the Option. Failure to comply with these conditions may lead to penalties (See Section 15, Non-compliance).
- 2.6 Cross-Compliance applies to all Area-based Schemes including EFS (H). Scheme Agreement holders must meet the Cross-Compliance conditions. Failure to meet the Cross-Compliance conditions could lead to the application of penalties to all Area-based Schemes including EFS (H). Further details on Cross-Compliance can be found on the DAERA website: www.daera-ni.gov.uk.
- 2.7 An annual claim for EFS (H) must be submitted through the Single Application and Maps Service for each of the 5 years of the EFS Agreement; regardless of whether a payment is due. This is separate to the application for your EFS Agreement, which is submitted in the year prior to your EFS Agreement commencing. Failure to make a claim for Options for two consecutive years will result in termination of EFS (H) agreement for agreements with one Option, or termination of the affected Option for agreements with more than one Option. Recovery of payments already made may be required, including Planner Fees if the EFS Agreement is terminated.

3. Payments

3.1 General payment issues

- 3.1.1 Payments for the Scheme cover only those commitments going beyond the relevant mandatory standards established pursuant to Annex 2 of Regulation (EU) No 1306/2013, as well as minimum requirements for fertiliser and plant protection product use and other relevant mandatory requirements established by national legislation.
- 3.1.2 Works started or completed before the notified Scheme Start Date are not eligible for payment.
- 3.1.3 It is the responsibility of the Agreement holder to ensure that the Option and Additional Capital Items area/length/units that they have entered to the Scheme meet the stated 'Requirements and Controls', as detailed in the Information Sheets.
- 3.1.4 All Capital Items and EFS (H) Options must be carried out as stated in the Agreement. Financial penalties may be applied if the Agreement holder claims for less than the works and annual management approved in their agreement.

3.2 **Capital Items payment**

- 3.2.1 Capital Items must be retained and maintained for the duration of the Scheme. They must be completed to the standard and time frames detailed in the associated 'Requirements and Controls'. References to relevant British Standards refer to the current up to date version of the appropriate standard. EFS (H) essential Capital Items are paid on a 'standard cost' basis. Standard costs and their specification are pre-determined by DAERA and explained in the Information Sheets for each EFS Option.
- 3.2.2 Claims for Capital Items are only permitted for the area/length/units/value actually completed and claims cannot exceed the amounts approved in the EFS (H) Agreement. Claims for Capital Items that have not been completed will be considered by DAERA as an over-declaration and penalties will apply (see Section 15, Non-compliance).

3.3 **Additional Capital Items payment**

- 3.3.1 Some EFS (H) Options have associated Additional Capital Items. The associated standard costs and specifications are in the DAERA EFS (H) Information Sheets for each additional Capital Item. Receipts or invoices for materials purchased for the implementation of Additional Capital Items must be retained and made available when requested. It will not be possible to add Additional Capital Items after the EFS (H) Scheme ssRMP is approved by DAERA or at any time during the term of the Agreement. Additional capital items are mostly paid on a standard cost basis and some are paid on an actual cost basis.
- 3.3.2 Standard costs
 - 3.3.2.1 Standard costs and their specification are pre-determined by DAERA. These are stated in the Information Sheet for each Capital Item.
- 3.3.3 Actual costs

3.3.3.1 An actual cost is the actual expenditure made to purchase an item or service. Actual costs and their specification are detailed in the ssRMP and the associated EFS Specialist Plan. In some cases, it will include installation or construction of a capital item to a certain specification.

3.3.3.2 The following Additional Capital Items are actual cost items:

- Restorative pruning of traditional orchards;
- Structures/work to raise water levels;
- Bankside reprofiling;
- Stock bridge;
- Tree surgery;
- Tree pollarding;
- Rhododendron and laurel control – control by stem injection
- Primary and follow-up treatments of invasive non-native plants – Japanese Knotweed;
- Primary and follow-up treatments of invasive non-native plants – Giant Hogweed;
- Primary and follow-up treatments of invasive non-native plants – Himalayan Balsam;
- Predator perch removal;
- Machinery for management of fen and reedbed tall vegetation; and
- Creation of wetlands.

4. Eligibility for participation in the Scheme

4.1 DAERA Business Identification (ID) number

4.1.1 EFS (H) Agreement holders must have a DAERA Category 1 or Category 2 Business ID.

4.2 Management Control

4.2.1 EFS (H) Agreement holders must have management control of a minimum of 3 hectares (ha) of eligible land, as defined in Section 4.3 below, for the duration of their agreement. Where land not owned by the Agreement Holder is brought into the scheme, 'management control' means a lease to cover the period of the EFS Agreement, which allows the Agreement Holder to make management decisions concerning the land. Where leased land is entered into EFS, both landlord and tenant are advised to seek legal advice when drawing up the lease. The EFS Agreement Holder will be the person actively farming the land in question, unless prior special approval has been granted by Scheme Management. Land that the applicant does not have management control of for the duration of the EFS Agreement is ineligible for EFS.

- 4.2.2 The 3.00 ha of eligible agricultural land for a Business ID can be a combination of field areas within the EFS Wider (W), Higher (H) and/or Group (G) levels.
- 4.2.3 If the eligible area falls below 3.00 ha at any point during the five year term of the Scheme, the EFS (H) Agreement may be terminated. Monies already paid may be recovered.
- 4.2.4 The Scheme Agreement holder must have management control of the fields listed in their agreement for the duration of the EFS (H) Agreement. Where rotational Options are included in an EFS (H) Agreement, these may only be rotated to appropriate fields listed in that agreement with DAERA permission.

4.3 **Eligibility of land / Maximum Eligible Area (MEA)**

- 4.3.1 The land or field areas eligible for EFS (H) Options must meet the eligibility requirements as detailed in the DAERA 'Guide to Land Eligibility' document, except in the circumstances as described in Section 4.5 of this document.
- 4.3.2 It is the Scheme Agreement holder's responsibility to ensure that they only claim for EFS (H) Options on eligible land and deduct all ineligible areas irrespective of what is indicated in their EFS (H) Agreement, except in the circumstances as described in Section 4.5 of this document. Claims for Options or part Options established on land outside the LPIS field boundary will be deemed ineligible for payment.
- 4.3.3 Land used for growing Christmas trees or Short Rotation Coppice (SRC) is not eligible for EFS (H) funding although 'Creation of tree-enhanced boundaries', 'Planting new hedgerows including two protective fences', 'Hedge laying including two protective fences¹', 'Traditional stone wall rebuilding – single skin' and 'Traditional stone wall rebuilding - double skin' EFS (H) Options can be applied on the boundaries of such land where one or more of these EFS Options are included in the Scheme agreement.

4.4 **Rotational Options**

- 4.4.1 A list of fields suitable for use for each EFS (H) rotational Option will be generated from the Agreement holder's Single Application for the year prior to the EFS (H) application.
- 4.4.2 If, in subsequent years, an Agreement holder is unsure of the suitability of any field intended for use for an EFS (H) rotational Option, then they should check the suitability of a field for the Option by contacting their local DAERA Direct Office for advice.

¹ Please note that the availability of the Option LAY is currently under review and it may not be available in Tranche 5 (Agreements commencing Jan 2022). A decision is yet to be taken but information will be made available once the decision is made.

4.4.3 An EFS (H) rotational Option must be claimed in the field(s) in which the Option has been established each year on the Single Application.

4.5 **Additional Capital Items applied to ineligible areas**

4.5.1 Additional Capital Items applied on ineligible features for example scrub control or rush control, will be eligible for funding where these works form part of the ssRMP as these works will enhance the management of the habitats and fulfil the Scheme objectives.

4.6 **Land receiving other funding under contract or obligation**

4.6.1 EFS (H) cannot be used to fund environmental management activities that are required by law or by any legally binding contract or obligation. EFS (H) funding must not be used to fund actions already being funded on the same land area under another agreement or from another source (known as double funding). It is the responsibility of the Agreement holder to ensure that EFS (H) Options and Capital Items do not receive double funding.

4.6.2 Agreement holders must check if they have land which is under contract or obligation to for example Forest Service Grant Schemes, Heritage Lottery Funding, Management of Sensitive Sites (MOSS) Scheme or any other scheme. Other obligations such as Planning Permission requirements, 'in perpetuity' management agreements or DAERA landscape feature removal mitigation cannot be funded.

4.6.3 Where publicly owned is leased e.g. land leased by Forest Service and the MoD, and applied for under EFS, the applicant must provide details of the lease agreement to enable DAERA to determine if an agreement can be offered and if such an agreement would offer significant additional environmental benefit, (over and above the management required by the lease) to the area in question.

4.6.4 Where there is evidence that an Agreement holder has knowingly claimed for an EFS (H) Option/Capital Items under EFS (H) and that EFS (H) Option/Capital Items has or will receive payment from another source, this may result in financial penalties, such as the recovery of payments already made, and possible termination of the EFS (H) agreement. DAERA may take legal action if examples of fraudulent activity are uncovered.

4.7 **Common land under EFS (H) Group Level agreement**

4.7.1 Specific **additional** conditions will apply to common land included in EFS (H) agreements. These are detailed in **Appendix A** of this document.

5. **Upper and lower limits of EFS (H) permitted**

5.1 **Number of EFS (H) Agreements permitted**

5.1.1 A Business ID is permitted to have a maximum of one EFS (W) agreement and one EFS (H) agreement. A Higher agreement may consist of one or more schedules which commence on different dates.

5.1.2 When a Business ID enters into an EFS (H) agreement, including Stand-alone Options, the EFS (H) Agreement holder shall not be permitted to make revisions during the lifetime of their agreement, except in instances of exceptional circumstances or Force Majeure.

5.2 **Number of Options permitted**

5.2.1 All EFS Options and additional Capital Items required for each management unit (field group) must be included in the ssRMP.

5.3 **Areas/Lengths/Units permitted**

5.3.1 The Scheme agreement lists the maximum area/length/unit/value for each Option and Capital item that can be claimed on a field by field basis. Minimum areas/lengths/units are set for some Options and, in some cases, there are maximum limits per field. Further information is available within the specific EFS Option Information Sheet.

6. **EFS Stand-alone Options**

6.1. **Establishment of Native Woodland less than 5 ha**

6.1.1 Under this Option, farmers will be paid for a period of 5 years. See Section 10.2 for the effect on Basic Payment Scheme (BPS).

6.1.2 The woodland is to be established and managed in accordance with the 'Establishment of Native Woodland less than 5 ha' Woodland Creation Plan issued to the Agreement holder by DAERA.

6.2 **Traditional Native Breeds**

6.2.1 Livestock Units (LUs)

6.2.1.1 The EFS (H) Agreement is based on the Irish Moiled Cattle (IMC) LUs the Agreement holder intends to retain. The number of individual female animals needed to meet the Agreement LUs may vary as animals age or move in or out of the herd. Determined LUs will be based on the age of eligible female animals on 1 January of that claim year.

6.2.1.2 The LU values for IMC are set as follows –

- 1 Irish Moiled cow over 24 months = 0.8 LU;
- 12 - 24 months = 0.6 LU;
- 6 - 12 months = 0.4 LU.

6.2.2 Minimum Number of animals

6.2.2.1 To be eligible to make a claim in any one year the Agreement holder must hold a minimum of 0.80 LUs of pedigree female Irish Moiled Cattle registered on APHIS/NIFAIS and registered with the Irish Moiled Cattle Society Breed Register.

6.2.3 Maximum Number of animals

6.2.3.1 The number of LUs claimed cannot exceed the number included in the EFS (H) Agreement.

6.2.3.2 There will be no penalty where the LUs claimed is less than the number included in the EFS (H) Agreement. This will allow for a herd to fluctuate in numbers without the need for a Scheme variation.

6.2.4 IMC Breed Register and DAERA records

6.2.4.1 IMC are only eligible for payment if registered with the IMC Society on its Breed register. DAERA ear tag numbers and breed registration numbers of claimed female IMC animals must be provided with each claim to enable validation against DAERA's identification system (APHIS or its replacement NIFAIS), and against IMC Society records. In the event of a discrepancy or concern about the identification of an animal, DAERA's identification system (APHIS or its replacement NIFAIS) will be final.

6.2.4.2 Checks to confirm the number of eligible animals and LUs will include the following APHIS/NIFAIS details: age, gender, births and deaths, transfers in and out of the herd for the calendar year, and ear tag numbers. If claiming for replacement animals the Agreement holder must provide DAERA ear tag numbers for both the original animal and the replacement.

6.2.5 Transferring animals in and out of the herd

6.2.5.1 The Agreement holder may transfer claimed animals in/out of their herd, but the Agreement holder must ensure that the claimed number of eligible animals/LUs is retained in their herd for the duration of the claim year.

6.2.6 Replacement animals

6.2.6.1 If a claimed animal dies payment will be made for the full year provided the animal is replaced with an eligible animal or animals of the equivalent or greater LU value within 6 weeks of the date of death.

6.2.6.2 In these circumstances the Agreement holder must:

- inform DAERA EU Area-based Schemes Division within 10 working days of the loss of the animal;
- inform DAERA EU Area-based Schemes Division within 10 working days of introducing the replacement animal to the herd; and,
- the replacement animal must be registered on APHIS (or NIFAIS) as in the Agreement holders herd within 42 days of the animal dying.

6.2.6.3 If a claimed animal dies and is not replaced within the six week replacement period then a Single Application claim amendment form must be submitted.

7. Record keeping

7.1 Requirements

7.1.1 An Agreement holder must complete and maintain records relating to the Scheme requirements as stated in the 'Requirements and Controls' sections of the EFS (H) Information Sheets and as required in the ssRMP. Records must be available to DAERA at any time of the year. If DAERA complete an EFS (H) inspection (On-the-Spot Check), the inspector will check that the records are up to date. The inspector will also check that the information entered verifies that the correct management has been undertaken. Failure to keep complete records may lead to a penalty (such as reduction and/or recovery of payments).

7.2 Integrated Pest Management (IPM)

7.2.1 Scheme Agreement holders must implement Principles 2 and 8 of Directive 2009/128/EC, Establishing a Framework for Community Action to achieve the Sustainable Use of Pesticides IPM. Principle 2 states that harmful organisms must be monitored by adequate methods and tools, where available. Such adequate tools should include observations in the field as well as scientifically sound warning, forecasting and early diagnosis systems, where feasible, as well as the use of advice from professionally qualified advisors. Principle 8 states that based on the records on the use of pesticides and on the monitoring of harmful organisms, the professional user should check the success of the applied plant protection measures.

7.2.2 It is the Agreement holder's responsibility to record and implement Principles 2 and 8 of IPM. The evidence for all years of the Scheme must be available for an inspector to check at any time.

8. Training courses

8.1 Completion of EFS (H) Option-specific training courses is compulsory. Training must be completed by 31 December of the first year of the

Agreement. Penalties for failure to complete training are explained in **Appendix A**.

9. Consents and permissions

9.1 Designated site

9.1.1 NIEA consent is not required for actions and works which are stipulated in the ssRMP. EFS (H) works carried out within an International or European designated site (Ramsar, SPA, SAC), within a national level designated site (ASSI) or along the designated site boundary do not require separate consent from DAERA. Any works not included in the EFS ssRMP will require separate consent from DAERA NIEA.

9.2 Public Rights of Way

9.2.1 Consent is required prior to the commencement of any works which are in the vicinity of a Public Right of Way. Such consents are made by Local Councils.

9.3 Extraction of peat, sand or gravel

9.3.1 The extraction of peat, sand or gravel is not permitted on land subject to any EFS (H) ssRMP.

9.4 Field boundaries close to historic monuments

9.4.1 EFS (H) Options and Capital Items cannot be created on an historic monument site or within its protection zone, which normally extends 10m immediately surrounding the monument, but in some cases may be greater. It is the responsibility of the Agreement holder or their nominated EFS Planner prior to the submission of the ssRMP to liaise with the Department for Communities (DfC) to ensure that the EFS (H) Option and Capital Items are not located on a historic monument site or within its protection zone.

10. EFS (H) and BPS Scheme eligibility

10.1 'Natural regeneration of native woodland' and 'Planting native tree corridors' EFS Options

10.1.1 These EFS Options shall remain eligible for BPS, , for the duration of the EFS (H) Agreement provided Single Farm Payment (SFP) was claimed and paid on the land in 2008. It is important to note that such areas shall be ineligible for BPS, at the end of the EFS (H) Agreement as this EFS Option constitutes a

conversion from agricultural land to land that cannot be readily returned to agricultural production.

10.2 **'Establishment of native woodland less than 5 ha' EFS Option**

10.2.1 Under this Option, the Agreement holder will be paid for a period of five years, and the woodland must be retained for an additional period of 15 years. Basic Payment Scheme can be claimed for the length of the commitment (inclusive of the retention period) if SFP was claimed and paid on the land in 2008.

10.3 **'Creation of riparian buffer' EFS Options**

10.3.1 Under these Options, Agreement holders will be paid for a period of five years, and must retain the riparian buffer for an additional period of 10 years. Basic Payment Scheme can be claimed for the length of the commitment (inclusive of the retention period) if SFP was claimed and paid on the land in 2008.

10.4 **'Establishment of agroforestry' EFS Option**

10.4.1 These areas are eligible for BPS in the initial years of tree establishment, provided agricultural activity remains predominant and is not significantly affected by the presence of trees.

11. **Dual Use Claims**

11.1 Dual Use Claims (DUCs) occur when two people claim separate scheme payments on the same land parcel. For example, one person might claim BPS on a field while the other person claims payment for EFS in the same field.

11.2 With regard to EFS (H) and BPS, DUCs will only be permitted in certain limited circumstances by the Scheme Manager, specifically on UK National Site or ASSI designated land and in cases where the EFS (H) applicant can demonstrate significant environmental benefit accruing from the arrangement.

12. **EFS (H) and Greening / Ecological Focus Areas**

12.1 The United Kingdom leaving the EU and the Common Agricultural Policy has meant that changes have been made to former CAP Pillar 1 and Pillar 2 constructs. 2021 Direct Payment Scheme Year Improvements/Changes have resulted in the removal of Greening requirements, therefore there are no longer any implications from Greening that can affect your EFS claim (with the exception of the restrictions on ploughing Environmentally Sensitive Permanent Grassland (PGS), which if breached could lead to a penalty on your EFS payment).

13. EFS (H) Claim

13.1 Claiming EFS (H)

- 13.1.1 The claim year is 1 January to 31 December. An annual claim for payment of EFS (H) Options and Additional Capital Items must be submitted using the Single Application and Maps Service by the deadline for submission. The claim should include the options that the Agreement Holder has completed or will complete in the claim year. Where the Single Application is submitted after the closing date, a late submission penalty will be applied to the EFS (H) claim. Details of the penalties for late applications are provided in the DAERA Guide to the Basic Payment Scheme.
- 13.1.2 The most up to date DAERA farm map should be used when claiming EFS (H). In cases where a protective fence has been erected within an existing field to protect small areas (less than 0.10 ha) of a newly created EFS Option, it is not deemed as a new field boundary. The fence is deemed to be a habitat protection fence and not a real world feature boundary.
- 13.1.3 Where actions to remove LPIS ineligible features are completed as part of the Scheme Agreement, it is the responsibility of the Agreement holder to submit any farm map amendments in accordance with the requirements of the BPS Scheme land eligibility.
- 13.1.4 Where an EFS (H) Option contains essential Capital Items, payment for these will be included in the Year 1 payment for the EFS (H) Option. A separate application for these essential Capital Items is not required. For example payment for the 'Creation of riparian buffer' Option in the first year of the Scheme includes the cost of the stockproof fence.
- 13.1.5 Where an EFS (H) Option has no annual recurring management payment in Years 2 - 5, this EFS (H) Option must still be claimed/declared each year as the Option must be retained and maintained for the duration of the agreement.
- 13.1.6 Each year the EFS (H) Options and Additional Capital Items in the agreement must be claimed for in the appropriate fields. Agreement holders must make all necessary deductions to the EFS claimed area in line with the MEA of the field at the time the EFS claim is being submitted. Failure to do so may result in penalties (See Section 15, Non-compliance).
- 13.1.7 Where it becomes clear that the areas or works claimed on the SAF cannot or will not be completed by the stated deadline, agreement holders must manage their EFS(H) claim using the EFS SAF3 form available on the DAERA internet. It is important that the EFS SAF3 form is submitted as soon as possible. EFS SAF3 forms submitted after the Business ID has been notified of an issue with their claim or has been notified of an inspection will be deemed invalid.

13.1.8 Failure to make a claim for Options for two consecutive years will result in termination of EFS (H) agreement for agreements with one Option or termination of the affected Option for agreements with more than one Option. Recovery of payments already made may be required.

13.2 **Claimed/Determined Area/Length/Unit/Value**

13.2.1 The EFS (H) claimed area/length/unit/value in the annual Single Application is deemed to be the area/length/unit/value claimed for payment. Where the claim is subject to inspection, that which is detected at inspection is the 'determined' area/length/unit/value. Measurements are taken using GPS points (and are 2-D in nature) as approved by the EU. Inspector measurements are considered final. Where the EFS (H) area/length/unit/value determined is different from the area/length/unit/value claimed, payment will be calculated on the lesser of the claimed or determined area/length/unit/value, in line with EU Regulations.

13.3 **Claiming actual cost additional Capital Items**

13.3.1 Where an EFS (H) agreement includes additional Capital Items which are based on actual costs (See Section 3.3.2), the Agreement holder must submit:

- i) invoice; and
- ii) a receipt or a receipted invoice and proof of payment.

13.3.2 An invoice must meet the following requirements.

- It must be the original invoice (not a photocopy) and include the supplier's name, address, telephone number and, where appropriate, the VAT number.
- It must show the date the work commenced and was completed.
- It must show details of the location (Farm Survey Number and field number) and area (hectares) or length (metres) or units of work undertaken.
- Type of goods and services provided, including quantities and unit costs and, if applicable, time spent on the work and hourly rate charged must be shown.
- It must include the amount of VAT charged as a separate item.

13.3.3 An example of an invoice is shown at **Appendix B**.

13.3.4 A receipt/receipted invoice and proof of payment must meet the following requirements.

- The receipt must show details of type of goods and/or services provided.
- The location (Farm Survey Number and field number) and area (hectares) or length (metres) or units of work undertaken must be shown.

- It must be properly signed by the supplier, including confirmation of status and be accompanied by the original (not a photocopy) appropriate bank/building society statement. Bank statements and electronic bank statements are acceptable where they include the name of the bank, the agreement holder's name and bank account number. Bank/building society balances can be blanked out.

- **Cash payments are not eligible.**

- The receipt must show the amount actually paid (as distinct from the amount invoiced) and indicate the amount of discount, if any, allowed.

13.3.5 An example of a receipt/receipted invoice is shown in **Appendix C**.

13.3.6 All actual cost documentation (invoices, receipts, receipted invoices and proof of payment documentation) must be submitted by 31 January in the year following the claim, i.e. actual costs capital items approved for the year commencing 1 January 2018 must be completed by 31 December 2018 and actual cost claim documentation must be submitted by 31 January 2019.

13.3.7 Receipts and/or receipted invoices for materials purchased for the implementation of Capital Items must be retained and be made available on request by DAERA.

13.4 **Repayment**

13.4.1 If the Agreement holder breaches the Terms and Conditions of the EFS (H) agreement or if there is a change in circumstances affecting the Agreement holder's eligibility to receive grant, DAERA reserves the right to withhold payment or require repayment of monies. As detailed in Section 15, if the Agreement holder is in non-compliance with the Terms and Conditions of the Agreement, penalties will be applied.

13.4.2 If the Agreement holder receives any overpayment or any payment to which he/she is not entitled, including as a result of a DAERA administrative error, the undue amount must be repaid. It is the Agreement holder's responsibility to check all payments received from the Paying Agency (DAERA) and notify the Paying Agency immediately if there is any reason to believe that an error has been made.

13.4.3 If any sum becomes repayable, it shall be treated as a debt owed to the Paying Agency until such time as the outstanding amount is repaid. A recovery order will be issued to the Agreement holder specifying the amount to be repaid and the date by which repayment must be made. Once a debt is raised it should be paid within the specified time frame otherwise interest will be applied to the debt. However as soon as the debt is on the system the outstanding amount is automatically intercepted from any other payments made by DAERA. It is possible this could be an immediate action.

13.5 **Obtaining payment by deception or fraud**

13.5.1 DAERA has a zero tolerance approach to fraud and when detected, it will pursue it vigorously and, if necessary, prosecute to deter reoccurrence.

13.5.2 Where any person, with a view to obtaining a payment of grant to him/her self or any other person makes any statement or provides any information which is false or misleading, the Department may withhold the whole or any part of any payments of grant payable to that person or such other person, and may recover the whole or any part of any sums already paid by way of grant to that person or such other person:

- where they have failed to do something which they undertook to do if the grant was made or where they are in breach of any conditions subject to which the grant was made, the Department may withhold the whole or any part of any grant payable to them and recover the whole or any part of any grant already paid;
- where the Department has to take any step specified in the above paragraphs, it may also treat the Agreement as having been terminated.

14. **Verifying Scheme compliance**

14.1 The EFS Options and Additional Capital Items in an EFS (H) Agreement are claimed as part of the Single Application and therefore must comply with the rules of the Single Application. By submitting a Single Application, the claimant agrees to permit DAERA to carry out an On-the-Spot Check (OTSC) for eligibility and compliance with or without prior notice at any reasonable time. No payment will be made if the claimant, or others acting on their behalf, prevent any of these checks from taking place.

14.2 Checks will be carried out as detailed in these 'Terms and Conditions' and in the 'Requirements and Controls' section of each EFS Option and Additional Capital Items Information Sheet. Therefore, when implementing an EFS Option or Additional Capital Item, it is the Scheme Agreement holders' responsibility to ensure that they satisfy all the 'Requirements and Controls' including the management requirements as stated in the ssRMP and the 'Terms and Conditions' for the Scheme.

14.3 OTSCs will be carried out on a percentage of claims by farm visits and will check compliance with the 'Requirements and Controls' including the management requirements as stated in the ssRMP and the 'Terms and Conditions' of EFS (H).

14.4 All claims will be subject to a range of checks before payment can be processed. This may include:

14.5 **Administrative checks**

14.5.1 These include cross checks with Single Application, LPIS, GIS databases, APHIS/NIFAIS, IMC Breed Register, and checks on additional information submitted with a claim for example invoices, receipts and proof of payment. Scheme records may be checked for all EFS Options and Capital Items (see Section 7 on Record Keeping).

14.6 **On-the-Spot Check (OTSC)**

14.6.1 In addition to administrative checks, DAERA is obliged to carry out OTSCs on at least 5% of claims.

14.6.2 If a classic OTSC is used, an inspector will visit the Scheme Agreement holder's farm. For Health and Safety reasons the inspector will attempt to contact the Scheme Agreement holder prior to the visit, usually by phone, advising them of the proposed time and date. The check may go ahead if contact cannot be made.

14.6.3 DAERA will carry out random, targeted and appropriately timed OTSCs including visual inspection and GPS measurement supported by inspector checklists which will record individual compliance with the 'Terms and Conditions' and the 'Requirements and Controls' of the EFS Options/Additional Capital Items of the Scheme including the management requirements as stated in the ssRMP. The inspector may take digital photographs of options or capital items during the course of the inspection. The 'Requirements and Controls' for each Option and Additional Capital Item is provided in the Information Sheets found online at www.daera-ni.gov.uk. The 'Requirements and Controls' section provides requirements on specification and the 'Control type' used for example administration, control with remote sensing (CwRS) and/or OTSC.

14.6.4 Where an EFS agreement includes **Drinking trough pipework² (DTP)** as a Non-productive Investment (NPI), the Agreement holder must comply with the management requirements as set out in the Information Sheet for this Option and in any future communication. Agreement Holders will be required to notify DAERA at or immediately after the installation of the pipework in order to facilitate installation checks. Further information on DTP installation checks will be sent directly to the Agreement Holder. Failure to comply with the Option management requirements and controls may result in the Agreement Holder having to expose sections of pipework and the possibility of payment penalties or refusal of payment.

14.7 **Inspection report**

14.7.1 A report will be prepared for every inspection (OTSC). Where irregularities have been identified, the claimant will be given the opportunity to make

² Please note that the availability of the DTP is currently under review and may not be available in Tranche 5 (Agreements commencing Jan 2022). A decision is yet to be taken but information will be made available once the decision is made.

comments on the inspection findings. It is not possible for an inspector to advise of the effect on the claim of works claimed for but not completed (over-declarations), ineligible areas claimed for or non-compliances detected at inspection. If penalties are to be applied to the Agreement holders claim, the claimant will be notified in writing by Area-Based Schemes Payment Branch at a later date.

15. Non-Compliance

15.1 If it is discovered that the 'Requirements and Controls' (contained within the EFS Information Sheets) including the management requirements as stated in the ssRMP and the 'Terms and Conditions' of the Scheme are not met, this is a non-compliance, which will result in an appropriate penalty or sanction being applied.

15.2 More detail on non-compliance and penalties is at **Appendix D**.

16. Amendments to and withdrawal from EFS (H)

16.1 Scheme variations requested by an Agreement holder

16.1.1 No amendments or rescheduling of approved additional EFS Options or of additional Capital Items is permitted by the Agreement holder, except in instances of exceptional circumstances or Force Majeure.

16.2 EFS (H) Variation of agreements by DAERA

16.2.1 It may be necessary for DAERA to vary the agreement in line with changes to Legislation and in other exceptional circumstances. In applying for the Scheme, the Agreement holder accepts that such changes may be made at any time. DAERA will make information on such changes available on its website. Where the changes are significant, DAERA will give the Agreement holder notice in writing. If the Agreement holder chooses not to accept the revised agreement, the agreement will be terminated and no monies will be recovered.

16.3 Transfer of land under EFS (H) agreement

16.3.1 DAERA will consider requests by the Agreement holder to transfer the agreement, or part of the agreement, to another party as a result of: a change in Business ID structure; death; inheritance; sale or lease of land

- 16.3.2 The Agreement holder must retain and manage the area /length/units agreed for the duration of the EFS (H) Agreement. For this reason only transfers of the EFS agreement to another party for the remainder of the agreement period will be considered. Transfers due to conacre (short term) letting arrangements are not permitted.
- 16.3.3 It is the responsibility of the Agreement holder to inform the prospective occupier about the EFS (H) commitment before the Agreement holder transfers or sells any land under agreement. If the new Business ID with management control of the land does not take over the agreement on that land the Agreement holder may be required to repay all EFS monies made in relation to that land.
- 16.3.4 The Agreement holder must notify DAERA of any proposed transfer or sale as soon as possible and within 28 days of transfer.
- 16.4 **Scission of a DAERA Business ID with an EFS (H) agreement**
- 16.4.1 Where a DAERA Business ID is subject to a scission or split, the EFS Options will remain with the land parcel(s) they are established on and will transfer to the associated split Business IDs. Two or more new EFS (H) agreements will be formed and signed by the member(s) of the new Business IDs and will continue for each associated split Business IDs for the remaining term of the original agreement. It will not be permissible to add new Options to the agreement following scissions. Each of the split Business IDs will have to meet the EFS (H) eligibility criteria.
- 16.4.2 If, after a land transfer or scission, any of the new Business IDs subsequently do not meet the EFS (H) eligibility requirements, the EFS (H) agreement will be terminated and monies may be recovered.
- 16.4.3 Any debt/ penalties applicable to the Business being split will transfer to the new Business IDs
- 16.5 **Merger of one or more DAERA Business IDs**
- 16.5.1 Where one or more DAERA Business IDs merge to form a new Business ID, and one or both of the merging Business IDs have an EFS (H) agreement, these commitments may be transferred to the new merged Business ID. If more than one of the original Business IDs has an EFS (H) agreement, it will be permissible for the EFS (H) agreement value for the merged Business ID to exceed the area and monetary thresholds applicable to the original EFS (H) agreement(s). Additional Options or capital items cannot be added to a Scheme agreement at the time of the merger.
- 16.5.2 If the merger includes two EFS (H) agreements with different 'Start dates', these will continue with until the original commitment period has been fulfilled.

16.5.3 If the merger includes one EFS(W) agreement and one or more EFS (H) agreements, the new Business ID will continue these commitments with each Option retaining the original agreement end date.

16.5.4 Any debt/ penalties applicable to the merging Businesses will transfer to the new Business ID.

16.6 **Death of a single member Business ID Agreement holder**

16.6.1 If a single member Business ID EFS (H) agreement holder dies during the period of the agreement, it is important that the personal representatives of the Business ID contact DAERA **in writing** as soon as possible. The agreement may continue where Personal Representatives accept the terms and conditions of the agreement. In this case, payment will be made to the Personal Representatives, with due regard to probate process. Where the Personal Representatives do not accept the terms and conditions of the agreement, the agreement will be terminated. In these circumstances there will be no recovery of payments already made.

16.7 **Death of a multi-member Business ID Agreement holder**

16.7.1 In a multi member Business ID, the agreement will continue as normal after the death of one member.

16.8 **Withdrawing from the Scheme**

16.8.1 If a Scheme Agreement holder wants to withdraw from the Scheme or discontinue with an EFS Option or Options, they must write to the Scheme Manager to explain the circumstances under which they wish to withdraw.

16.8.2 Scheme Agreement holders can withdraw from the Scheme at any point prior to submitting a first claim as long as DAERA have not informed the Scheme Agreement holders of any errors in their application or informed them of an inspection which subsequently reveals errors in respect of the withdrawn information.

16.8.3 If a Scheme Agreement holder terminates their agreement after receiving one or more EFS (H) payments, they shall have to repay any monies received plus interest, unless the termination relates to the following circumstances below.

16.8.4 The EC Regulation 1305/2013 provides for very few cases where termination of the EFS (H) contracts without reimbursement is possible. These include situations related to:

- Changes to the baseline (Art.48)
- Changes due to adaptation to the new legal framework (Art.48)
- Transfer of all or part of the land under commitments (Art.47(2))

- Re-parcelling or public land consolidation (Art.47(3))
- Cases of Force Majeure and exceptional circumstances (Art.47(4))

16.8.5 DAERA will consider the facts on a case-by-case basis in deciding whether these circumstances apply.

17. Force Majeure and exceptional circumstances

17.1 Where non-compliance with the EFS (H) Terms and Conditions occurs as a result of unusual circumstances, beyond the control of the applicant, and with consequences which, in spite of all due care, could not be avoided, these circumstances may be regarded as Force Majeure. The criteria for Force Majeure are set out in European Commission Regulation (EC) No 1306/2013, Article 2(2) and include the following:

- (a) The death of the beneficiary (i.e. the Agreement holder);
- (b) Long-term professional incapacity of beneficiary (i.e. the Agreement holder);
- (c) A severe natural disaster gravely affecting the holding;
- (d) The accidental destruction of livestock buildings on the holding;
- (e) An epizootic or a plant disease affecting part or all of the beneficiary's livestock or crops respectively;
- (f) Expropriation of all or a large part of the holding if that expropriation could not have been anticipated on the day of lodging the application.

17.2 Notifying a Force Majeure event to DAERA

17.2.1 Notification of Force Majeure or exceptional circumstances should be made to DAERA in writing either at the time of claim submission or, where the Force Majeure event is after claim submission, **within 15 working days** of being in a position to do so.

17.2.2 If the Agreement holder considers that Force Majeure applies they are advised to contact Countryside Management Branch immediately for advice. In the case of the death of the Agreement holder, personal representatives must notify DAERA.

18. Review of decisions

18.1 If the Scheme Agreement holder considers that the DAERA decision regarding an EFS (H) penalty is incorrect, they have the right to request a review of decision. DAERA recommend that before requesting a formal review, the

Scheme Agreement holder contacts Scheme staff to discuss the case. The Scheme staff will be able to provide a fuller explanation either over the telephone, in person or in writing, which may allow the matter to be resolved without the need to request a formal review.

18.2 **Using this option does not affect the Scheme Agreement holder's right to proceed with a formal review but the deadlines for return of the application for a review will not be extended.**

18.3 More information on the Review of Decisions process is available on the DAERA website
<https://www.daera-ni.gov.uk/publications/area-based-schemes-review-decisions-procedure>

19. Complaints procedure

19.1 DAERA customer service standards and complaints procedure are explained in 'Our Customer Service Standards' and 'Our Complaints Procedure' leaflets which can be viewed on the DAERA website.

20. EU Regulations Governing EFS (H)

20.1 EFS (H) is part of the NI Rural Development Plan 2014-20 and has been drawn up in accordance with Regulation (EU) No. 1305/2013 and Statutory Rule 2015 No. 326.

20.2 It is the responsibility of the Agreement holder to adhere to all relevant National and EU legislation.

20.3 You can find the relevant EC Regulations on the European Union website at www.eur-lex.europa.eu/en/index.htm

Appendix A

Common Land Rules and Group Penalties

Eligibility

- Common land is land that is owned by more than one person. Typically each shareholder owns a defined fraction of the total area and this is detailed on each shareholder's folio. Another situation arises in respect of lands where there are "grazing rights". These do not involve any ownership of the land but, as the name suggests, give a right to graze livestock on the area involved.
- Only common land which forms part of an EFS Group Pilot Project, and is approved by DAERA, will be eligible to enter into an EFS (H) Agreement.
- EFS Options eligible on the common land must be managed as part of the EFS (H) Agreement and Site Specific Remedial Management Plan.
- Over 50% of the shareholders or 50% of the land must be entered into the agreement. If, during the course of the agreement, the amount of land or shareholders falls below these thresholds, the commonage will be removed from EFS and penalties may be applied.

Group Penalties

EFS Option/capital item type	Type of Non-compliance	Amount eligible for Payment	Penalty applicable	Recovery of payments of previous year(s) required	Maximum eligible payment in successive years
All	Minimum Eligibility Criteria (see Appendix D, Annex 1)	Nil	Scheme Termination	Recovery of all EFS payments to date	Not applicable
All	Over- declaration	Reduce EFS payment if there is a difference between the amount claimed and the amount found (See Penalty Matrix 2 and Penalty Matrix 3).		Permanent Options/capital items - Recovery of EFS payments to date for over-declared area/length/units	Determined area/length/units where applicable
All	Option/capital item not managed as set out in Capital works and/or Recurring annual management requirements in the Option/capital item Information Sheet, excluding minimum amount for completion and record keeping Baseline Requirements breach (see Appendix, Annex 2)	Determined area/length/units	See Penalty Matrix 5	See Penalty Matrix 5	See Penalty Matrix 5
All	Records not kept as prescribed		5% of the EFS Option/capital item payment for the year of inspection	Not applicable	Not applicable

APPENDIX A

EFS Option/capital item type	Type of Non-compliance	Amount eligible for Payment	Penalty applicable	Recovery of payments of previous year(s) required	Maximum eligible payment in successive years
All	Training must be completed by Single Application deadline in Year 1		No EFS payment will issue until training is completed, subject to clause below	Not applicable	Not applicable
	Training must be completed by 31 December of Scheme in Year 1		Rejection from EFS	Recovery of all EFS payments to date	Not applicable
All	Cross-Compliance requirements (see Annex 2)	Determined area/length/units	% Cross-Compliance penalty determined for Basic Payment Scheme is also applicable to EFS (please see https://www.daera-ni.gov.uk/publications/cross-compliance-penalties).	Not applicable	Determined area/length/units where applicable

Application of Penalties

1. Each agreement holder within the Group must have management control of their percentage share of the commonage under their agreement.
2. If a breach occurs, and it cannot be proven who breached, EFS penalties will apply proportionately to all agreement holders within the Group, based on their percentage share of the commonage.
3. If a breach occurs, and it can be proven which agreement holder breached, EFS penalties will apply to the agreement holder that breached.
4. If the farmer that it is not part of the Group breaches, and it can be proven that the breach is theirs, penalties will not be applied to Group members.
5. However, if the farmer that it is not part of the Group breaches, and it cannot be proven that the breach is theirs, penalties will be applied to all Group members proportionately, based on their percentage share of the commonage.
6. Cross-compliance penalties will apply to all Group members, unless it can be proven who is directly responsible for the breach.

7. If there is a CC breach on non-Group-member's non-commonage land, CC penalties will only apply to the non-commonage land and will not also be placed on the Group members.

EFS Training

1. All Group members must undertake EFS training which must be completed by 31 December of the first year of the Agreement.

EFS Record Keeping

1. Records must be kept and maintained by agreement holder / facilitator.

Dual Use Claims

1. Dual Use Claims are permissible as the commonage is part of a Group Pilot Project and significant environmental benefit will be delivered via the EFS agreement.

Appendix B

Example invoice

James Contractor Ltd.	
Agricultural Services Company	
35 Market Street Anytown Co. Antrim	VAT Reg. No. 12121212121212 Tel: 2500 1100 Email: James@AgriculturalServices.com
To: Joseph Farmer 22 Some Road Anytown Co. Antrim	10 th March 2018 Invoice No: 123456
Invoice for supplying equipment, materials and labour to Joseph Farmer at Farm Survey Number 7/7/7, field 3. Work commenced 20 th February 2018 and was completed on 21 st February 2018.	
Labour and machinery to prepare site for erecting one stock bridge 4 hours work @ £25.00/hour	£100.00
Construction of one stock bridge to Engineer's specification	£1250.00
Labour and machinery to install one stock bridge 6 hours work @ £25.00/hour	£150.00
Sub-total	£1500.00
VAT	£300.00
Total inc. VAT	£1800.00

Appendix C Example receipt / receipted invoice

James Contractor Ltd.			
Agricultural Services Company			
35 Market Street Anytown Co. Antrim	VAT Reg. No. 12121212121212 Tel: 2500 1100 Email: James@AgriculturalServices.com		
To: Joseph Farmer 22 Some Road Anytown Co. Antrim	10 th March 2018 Invoice No: 123456		
Receipt for supplying equipment, materials and labour to Joseph Farmer at Farm Survey Number 7/7/7, field 3. Work commenced 20 th February 2018 and was completed on 21 st February 2018.			
Labour and machinery to prepare site for erecting one stock bridge 4 hours work @ £25.00/hour	£100.00		
Construction of one stock bridge to Engineer's specification	£1250.00		
Labour and machinery to install one stock bridge 6 hours work @ £25.00/hour	£150.00		
Sub-total	£1500.00		
VAT	£300.00		
Total inc. VAT	£1800.00		
<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>Signed: <i>James Contractor</i></p> <p>Position: Company owner</p> </td> <td style="width: 50%; vertical-align: top; border: 1px solid black; padding: 5px;"> <p>Total amount paid: £1800.00</p> <p>No discount</p> <p>Date paid: 11/4/18</p> </td> </tr> </table>		<p>Signed: <i>James Contractor</i></p> <p>Position: Company owner</p>	<p>Total amount paid: £1800.00</p> <p>No discount</p> <p>Date paid: 11/4/18</p>
<p>Signed: <i>James Contractor</i></p> <p>Position: Company owner</p>	<p>Total amount paid: £1800.00</p> <p>No discount</p> <p>Date paid: 11/4/18</p>		

Appendix D EFS Penalties Framework

NB The EFS Penalty Framework maybe updated at any time. Any amendments will be published on the DAERA website. At Inspection, agreements will be subject to the penalty framework which is applicable and published on the DAERA website on the date of inspection.

1. Checking Scheme compliance

The claim process for EFS Options and capital items (Non-Productive Investments (NPIs)) is integrated with the Single Application. The control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to EFS are detailed in Regulations (EU) No 1305/2013 and (EU) No 1306/2013 of the European Parliament and of the Council, Commission Delegated Regulation (EU) 640/2014, Commission Implementing Regulation 809/2014 and The Rural Development Programme Regulations (Northern Ireland) 2015. By entering into an EFS Agreement, the Agreement Holder agrees to permit DAERA to carry out an On-the-Spot Check (OTSC) with or without prior notice at any reasonable time. No payment will be made if the Agreement Holder, or others acting on their behalf, prevents any of these checks from taking place.

All claims will be subject to a range of checks which may include administrative checks and OTSCs. The check may be in the form of a classic OTSC, where an inspector will visit the claimant's farm. The inspector may take digital photographs of options / capital items.

Checks will be carried out as detailed in the EFS 'Terms and Conditions' documents and in the 'Requirements and Controls' section of each Option/capital item Information Sheet. Therefore, when implementing a selected EFS Option/capital item, it is the participant's responsibility to ensure that they satisfy all the 'Requirements and Controls' of the Option/capital item and the 'Terms and Conditions' for the Scheme.

2. Administrative checks

These include cross-checks with IACS, LPIS, GIS and APHIS/NIFAIS databases and checks on additional information submitted with a claim, for example invoices, receipts and proof of payment. Scheme records may be checked for all EFS Options/capital items (see Section 7 of Terms and Conditions documents on Record Keeping).

3. On-the-Spot Check (OTSC)

In addition to administrative checks, DAERA is obliged to carry out OTSCs on at least 5% of claims. DAERA will carry out random, targeted and appropriately timed OTSCs. These will include visual inspection and GPS measurement supported by inspector checklists which will record individual compliance with the 'Terms and Conditions' of the Scheme and the 'Requirements and Controls' of the Options/capital items as stated in the Information Sheet. The 'Requirements and Controls' section provides guidance on specification and the 'Control type' used e.g. administrative and OTSC.

If a classic OTSC is used, an inspector will visit the Agreement Holder's farm. The inspector will attempt to contact the Agreement Holder prior to the visit, usually by phone, advising them of the proposed date and time. The check may go ahead if contact cannot be made. The inspector may take digital photographs of options / capital items. Refusal of an OTSC will result in no payment being made to the claimant.

4. Inspection report

An inspection report will be prepared after every inspection. Where irregularities are identified, the claimant will be given the opportunity to make comments on the inspection findings. It is not possible for an inspector to advise of the effect on the claim of ineligible areas claimed for or non-compliances identified at inspection. If penalties are to be applied to your claim, you will be notified in writing by Area-Based Schemes Payments Branch after the inspection.

5. Non-Compliance

If it is determined that the 'Terms and Conditions' and/or 'Requirements and Controls' of the Scheme are not met, this is called a non-compliance which will result in an appropriate penalty being applied (see Tables below).

6. Types of non-compliance

The main types of non-compliance with regard to EFS agreements are:

- Failure to meet minimum eligibility criteria.
- Failure to meet baseline requirements.
- Area/length/unit over-declaration³.
- Capital item over-declaration.
- Traditional Native Breeds (Irish Moiled cattle) – over-declaration/non-compliances¹.
- Late claim/submission.
- Non-declaration of land (as determined through BPS claim processing).
- Option/capital item not managed as set out in Capital works and/or Recurring annual management requirements in the Option/capital item Information Sheet, excluding minimum amount for completion and record keeping⁴.
- Breach of other obligations stated in the Scheme Terms and Conditions².
- Failure to meet record keeping requirements.

³ Where the area, number of animals or number of units claimed for an EFS Option is greater than the limit stated in the EFS Agreement, the claim shall be adjusted to the Agreement limit without penalty.

⁴ Where a breach of Agreement is of a minor nature and does not compromise the objectives of an Option/capital item and it can be rectified within three months of the date of notification to the customer of the action they need to take, payments may be withheld until the breach has been rectified. This is only available in certain circumstances.

- Training not completed.
- Failure to meet Cross-Compliance.

7. Over-declaration

An over-declaration is the difference between the area/length/units claimed and the area/length/units determined eligible for payment after completion of administrative checks and inspections where applicable. It is calculated as a % of the area/length/units eligible for payment. To meet EU legislative requirements different over-declaration penalties are applied to

- (i) Capital funded Options listed in Table 1 below and all capital items,
- (ii) Recurring annual management funded Options, and
- (iii) Traditional native breeds Option

SSW	Traditional stone wall rebuilding - single skin
DSW	Traditional stone wall rebuilding - double skin
LAY ⁶	Hedge laying including two protective fences
CTO	Creation of Traditional orchard
ENW	Establishment of Native woodland less than 5 ha
EAF	Establishment of Agroforestry
NTC	Planting Native tree corridors
PNH	Planting new Hedgerows including two protective fences
BNT	Creation of riparian buffers - 2m width planted with native tree
BWT	Creation of riparian buffers - 10m width planted with native trees
RBS	Creation of riparian buffers – 2m width ungrazed
RBW	Creation of riparian buffers – 10m width ungrazed

A detailed explanation of the over-declaration penalties applicable is contained in Penalty Matrix 2, Penalty Matrix 3 and Penalty Matrix 4 sections of this document.

Where a capital item/NPI has been completed and claimed, but the associated EFS Option has not been established as claimed, the capital item/NPI is not eligible for funding and will

⁵ All other EFS Options are deemed to be annual recurring management funded Options

⁶ Please note that the availability of the Option LAY is currently under review and it may not be available in Tranche 5 (Agreements commencing Jan 2022). A decision is yet to be taken but information will be made available once the decision is made.

be treated as an over-declaration. Over-declaration penalties will be applied to the capital item/NPI claim.

Where a capital item/NPI has been completed and claimed but the associated EFS Option has not been established or claimed, the capital item/NPI is not eligible for funding. No penalty will be applied to the capital item/NPI claim.

8. Cross-Compliance

In addition to the OTSCs detailed above, DAERA will also undertake a programme of Cross-Compliance inspections to ensure that claimants adhere to the Northern Ireland Cross-Compliance requirements. Penalties will be applied for failure to adhere to the Northern Ireland Cross-Compliance requirements. Cross-Compliance penalties are applied at claim level. The following link provides more details of how Cross-Compliance penalties are applied - <https://www.daera-ni.gov.uk/publications/cross-compliance-penalties>

9. EFS penalties

EFS penalties, with the exception of minimum eligibility criteria and non-completion of EFS training, will be applied at crop group level. A crop group comprises Options/capital items with the same payment rate. In cases where Option/capital item payments are tiered, the average payment rate will be used for calculation of penalties.

10. Order of reductions, refusals, withdrawals and penalties

Reductions, refusals, withdrawals and penalties shall be applied to EFS payments in the following order, as per Articles 6 and 7 of Commission Implementing Regulation (EU) No 809/2014; each successive reduction will be applied to the amount resulting from the previous reduction:

1. Minimum eligibility requirements resulting in refusal of claim.
2. Over declaration penalties (capital)
3. Over declaration penalties (non-capital items)
4. Scheme non-compliance refusal penalties (including baseline).
5. Late claim/late increase penalties.
6. Non-declaration of land penalties.
7. Scheme non-compliance withdrawals penalties.
8. Cross-Compliance penalties.
9. Offset penalties from previous years.

It is important to note that scheme non-compliance withdrawal penalties will still apply as these relate to payments for previous years.

Appendix D EFS Penalty Framework

EFS Penalty Matrix 1 - Overall Framework

EFS Option/capital item type	Type of Non-compliance	Amount eligible for Payment	Penalty applicable	Recovery of payments of previous year(s) required	Maximum eligible payment in successive years
All	Minimum Eligibility Criteria (see Annex 1)	Nil	Scheme termination	Recovery of all EFS payments to date	Not applicable
All	Over- declaration	Reduce EFS payment if there is a difference between the amount claimed and the amount found (see Penalty Matrix 2 and Penalty Matrix 3).		Permanent Options/capital items - Recovery of EFS payments to date for over-declared area/length/units	Determined area/length/units where applicable
Traditional Native breeds	Over- declaration/non-compliance	Determined LUs	See Penalty Matrix 4	Not applicable	Not applicable
All	Option/capital item not managed as set out in Capital works and/or Recurring annual management requirements in the Option/capital item Information Sheet, excluding minimum amount for completion and record keeping Baseline Requirements breach (see Annex 2)	Determined area/length/units	See Penalty Matrix 5	See Penalty Matrix 5	See Penalty Matrix 5
All	Records not kept as prescribed		5% of the EFS Option/capital item payment for the year of inspection.	Not applicable	Not applicable

APPENDIX D

EFS Option/capital item type	Type of Non-compliance	Amount eligible for Payment	Penalty applicable	Recovery of payments of previous year(s) required	Maximum eligible payment in successive years
All	Agreement Holders who enter EFS from 2020 onwards – Training should be completed by Single Application deadline in Year 1		No EFS payment will issue until training is completed, subject to clause below	Not applicable	Not applicable
	Agreement Holders who enter EFS from 2020 onwards – Training must be completed by 31 December of Scheme in Year 1		Rejection from EFS	Recovery of all EFS payments to date	Not applicable
All	Cross-Compliance requirements (see Annex 2)	Determined area/length/units	% Cross-Compliance penalty determined for Basic Payment Scheme is also applicable to EFS (please see https://www.daera-ni.gov.uk/publications/cross-compliance-penalties).	Not applicable	Determined area/length/units where applicable

NOTE:

1. Baseline breaches include breaches of Cross-Compliance (the GAEC and/or SMRs). All Cross-Compliance breaches are reported to the Area-Based Schemes Payments Branch, DAERA. Therefore, separate non-compliance penalties will also be applied to other Area Based Schemes payments
2. Where a second breach for the same action occurs, then the penalty amount will be doubled for the second breach.
3. Where a third breach for the same action occurs, then the penalty amount will be trebled for the third breach.
4. Where the participant notifies DAERA, prior to an inspection or administrative check, of the full or partial withdrawal of an Option/capital item, no payment for the withdrawn amount will be made and there will be a clawback of monies paid in previous years for that Option/capital item.

APPENDIX D

5. Where DAERA has already informed the Agreement Holder of any cases of non-compliance, or where DAERA has given notice to the Agreement Holder of its intention to carry out an OTSC, or where an OTSC reveals any non-compliance, withdrawals shall not be authorised in respect of area or works affected by the non-compliance.
6. In instances where the claimant exceeds the Agreement schedule area or number of units, the claim will be reduced to the amount detailed on the schedule.
7. If the penalty calculated cannot be fully offset within three calendar years following the calendar year of the finding, the outstanding balance will be cancelled.

Penalty Matrix 2 - Capital Options and capital item over-declaration

Definition of Claimed Area/Length/Units

The claimed area/length/units in any year is the area/length/units claimed under the Environmental Farming Scheme.

If the amount claimed exceeds the amount determined by more than 10.00%, an administrative penalty shall be applied and the penalty shall be the difference between those two amounts but shall not go beyond full withdrawal of the support for the capital item.

Where the area/length/units claimed is greater than the limit stated in the EFS Agreement, the claim shall be adjusted to the Agreement limit without penalty.

Where a capital item/NPI has been completed and claimed, but the associated EFS Option has not been established as claimed, the capital item/NPI is not eligible for funding and will be treated as an over-declaration. Over-declaration penalties will be applied to the capital item/NPI claim.

Where a capital item/NPI has been completed and claimed but the associated EFS Option has not been established or claimed, the capital item/NPI is not eligible for funding. No penalty will be applied to the capital item/NPI claim.

Table 1.

Difference between expenditure claimed and determined	Size of penalty
10.00% or less of the amount determined	No penalty
More than 10.00% of the amount determined	The difference between the amount claimed and the amount determined.

Example 1:

Agreement	315 m Stock Proof Fencing (SPF)	315 m*£6.00/m	£1,890.00
Claimed	315 m SPF	315 m*£6.00/m	£1,890.00
Determined	295 m SPF	295 m*£6.00/m	£1,770.00
Difference	$£1,890.00 - £1,770.00 = £120.00 / £1,770.00 = 6.78\%$		
Payment	295m SPF	295 m*£6.00/m	£1,770.00
As this is less than 10% of the amount due, no penalty is applicable. However, the payment is limited to the amount determined – £1,770.00			

Example 2:

Agreement	200 m Traditional dry stone wall rebuilding single skin (SSW)	200 m*£13.02/m	£2,604.00
Claimed	200 m SSW	200 m*£13.02/m	£2,604.00
Determined	185 m SSW	185 m*£13.02/m	£2,408.70
Difference	$£2,604.00 - £2,408.70 = £195.300/£2,408.70*100 = 8.11\%$		
Payment	185 m SSW	185 m*£13.02/m	£2,408.70

As this is less than 10% of the amount due, no penalty is applicable. However, the payment is limited to the amount determined = £2,408.70

Example 3:

A capital funded actual cost Option/item has been included in an EFS Agreement with an approved value of £1000.00 but the participant submits a claim for £1000.00, accompanied with a receipt for £1200.00. The value determined at OTSC was £1000.00. The claimed amount equals both the approved and determined amounts.

No penalty is applicable – no risk to the fund. Assuming no other penalties are applicable, £1000.00 is due for payment.

Example 4:

A capital funded actual cost Option/item has been included in an EFS Agreement with an approved value of £1000.00 but the participant submits a claim for £1,200.00. The value determined at OTSC was £1,200.00. Because the value of the agreement is less than the amount claimed, only the amount in the agreement is paid.

Because of the ceiling, there is no risk to the fund and **no penalty is applicable**.

Example 5:

Agreement (capital funded actual costs item)	£1,000.00
Claimed	£1,200.00
Determined	£ 900.00
Difference $£1,000.00-£900.00 = £100.00/£900.00*100 = 11.11\%$	
Penalty ($£1000.00 - £900.00 = £100.00$)	£ 100.00
Payment	£ 800.00

The claimed amount (reduced to agreed amount) exceeds the determined amount by £100 or 11.11%. The penalty applicable is the difference between the amount claimed (adjusted to agreement limit) and the amount determined (£1,000.00 - £900.00). Assuming no other penalties are applicable, £800.00 (£900.00 - £100.00) is due for payment.

Penalty Matrix 3 - Recurring annual management funded area/linear/unit EFS Option over-declaration

Definition of Claimed Area/Length/Units

The claimed area/length/units in any year is the area/length/units claimed under the Environmental Farming Scheme.

Differences between Claimed Area/Length/Units and Area/Length/Units Determined (Found)

Where the area/length/units claimed is greater than the limit stated in the EFS Agreement, the claim shall be adjusted to the Agreement limit without penalty. Where the area/length/units claimed (declared) is greater than the eligible area/length/units determined (found), the rules regarding payment and penalties will be applied in accordance with Article 19 of Commission Regulation (EU) No 640/2014, as outlined below. The Yellow card penalty process is not applicable to EFS.

If there is a difference between the claimed area/length/units and the area/length/units determined (found), the calculation will be based on the lower of the two. If the difference between the total claimed area and the determined area is equal to or less than 0.1 hectares, payment is based on the total claimed area unless this represents more than 20% of the total area declared. If the claimed area/length/units over-declaration is up to 3% of the area/length/units found or two hectares, no penalty will be applied and payment will be based on the area/length/units found. However, if the difference is greater than 3% or two ha, penalties as outlined in Table 2 below will be applied. No area/length/units penalty will apply where the maximum area/length/units payable for the Option has been delivered.

Table 2

Difference between the area / length / units determined and the area / length / units claimed	Size of penalty
More than 2 hectares or 3% but not more than 20%	Payment is reduced by twice the difference between area/length/units determined and area/length/units claimed.
More than 20% but not more than 50%	No payment is made for the option/crop group concerned for the year in question.
Greater than 50%	No payment is made for the option/crop group concerned for the year in question. A further penalty will be added based on the difference between the area/length/units determined and the number claimed and will be offset against any EU payment due to the Scheme participant during the course of the following three calendar years.

Example 1

A total of 1.50 ha of 'Natural Regeneration of Native Woodland' has been approved and claimed. At OTSC, only 1.38 ha (determined area) has been completed and is eligible for payment.

Agreement	1.50 ha NRW	£360*1.50 ha	£540.00
Claimed	1.50 ha NRW	£360*1.50 ha	£540.00
Determined	1.38 ha NRW	£360*1.38 ha	£496.80
Over declaration	1.50 ha - 1.38 ha = 0.12ha $0.12/1.38*100 = 8.70\%$		
Penalty	0.12 ha*£360.00*2		£ 86.40
Payment	£496.80 – £86.40		£410.40

Difference is more than 2ha or 3% (8.70%). Penalty is twice the difference between the area determined and area claimed.

Example 2

Agreement	2.50 ha NRW	£360*2.5 ha	£900.00
Claimed	2.50 ha NRW	£360*2.5 ha	£900.00
Determined	0.39 ha NRW	£360*0.39 ha	£140.40
Over declaration	2.5 ha - 0.39 ha = 2.11ha $2.11/0.39*100 = 541.03\%$		
Payment	over 50% and 2 ha so payment refused		£Nil
Additional penalty	2.5 ha - 0.39 ha = 2.11ha*£360		£759.60

No payment is made for the option/crop group concerned for the year in question. A further penalty (£759.60) will be added based on the difference between the area/length/units found and the number claimed and will be offset against any EU payment due to the Scheme participant during the course of the following three calendar years.

Example 3

Agreement	100.00ha NRW	£360.00*100.00 ha	£36,000.00
Claimed	100.00 ha NRW	£360.00*100.00 ha	£36,000.00
Determined	98.00 ha NRW	£360.00*98.00 ha	£35,280.00
Over declaration	100.00 ha - 98.00 ha = 2ha $2.00/98.00*100 = 2.04\%$		
Payment	98*360.00		£35,280.00

No penalty is applicable as the difference is not more than 2ha or 3%. However, payment will be reduced to the area determined.

Example 4

Agreement	100.00 ha NRW	£360.00*100.00	£36,000.00
Claimed	100.00 ha NRW	£360.00*100.00	£36,000.00
Determined	78.00 ha NRW	£360.00*78.00	£28,080.00
Over declaration	100.00 ha – 78.00 ha = 22.00 ha = $22.00/78.00*100.00 = \mathbf{28.21\%}$		
Payment			£Nil

Difference between the area claimed and the area determined is more than 20% but not more than 50%. No payment is made for the option/crop group concerned for the year in question.

Penalty Matrix 4 - Over-declaration of Traditional Native Breeds

Animals present on the holding can only be considered eligible if they are identified in the payment claim. Irish Moiled Cattle penalties shall be applied as detailed in Table 3 below:

Table 3.

Over-declaration/Non-compliance	Size of penalty
Up to 3 animals	Payment reduced by the percentage over-declared or non-compliant LUs
More than 3 animals but not more than 10% LUs	Payment reduced by the percentage over-declared or non-compliant LUs
More than 3 animals and more than 10% LUs but not more than 20% LUs	Payment reduced by twice the percentage over-declared or non-compliant LUs
More than 3 animals and more than 20% LUs but not more than 50% LUs	No payment will be made in relation to this animal-related measure for the claim year concerned.
More than 3 animals and more than 50% LUs	No payment will be made in relation to this animal-related measure for the claim year concerned. An additional penalty of an amount equal to the difference between the number of LUs claimed and the number of LUs eligible for payment (determined) will be applied. This further penalty will be offset and recovered against claims made in the following three years. Any penalty amount that cannot be recovered over three years will have the balance cancelled.

Number of LU over-declared/non-compliant

Number of LU determined (eligible)

% over-declared/non-compliant =

x 100

Payment for female Irish Moiled animals is based on Livestock units (LU):

Irish Moiled cow = 0.8 LU

Aged 12-24 months = 0.6 LU

Aged 6-12 months = 0.4 LU

NB: in order to ascertain if a penalty is applicable, the **number of animals** found to be over declared/non-compliant should be considered

Example 1:

10 Irish Moiled cows (8.0 LU) have been approved and claimed. As a result of administrative checks, only 8 cows (6.4 LU) are eligible for payment (determined). The percentage over-declared/non-compliant is **8.0 LU - 6.4 LU = 1.6 LU. This is equal to 1.6/6.4 = 0.25 x 100 = 25%** (there are not more than 3 animals over-declared). Therefore a 25% penalty will be applicable. The penalty will be £152.00 (6.4 LU*£95.00*25%).

Payment will be calculated as follows:		
Number determined (LU) 6.4	6.4*£95.00	£608.00
Penalty (25%)	£608*25/100	£152.00
Amount to be paid		£456.00

Example 2:

A business has an agreement for 20 Irish Moiled cows (16.0 LU) and has claimed for this amount. During administrative checks, only 15 animals (12.0 LU) are found to have been properly registered with the IMC Society. Payment is reduced as follows:

The percentage of over declaration/non-compliance is $16.0 \text{ LU} - 12.0 \text{ LU} = 4 \text{ LU}$. This is equal to $4/12 = 0.33 * 100 = 33.33\%$ which is over three animals and 20% but not in excess of 50% so payment is withheld for the current scheme year.

Payment will be calculated as follows:		
Number determined (LU)	12.0*£95.00	£1140.00
Penalty (withheld)		£1140.00
Amount to be paid		£ 0.00

Example 3:

A business has an agreement for 20 Irish Moiled cows (16 LU) and has claimed for 16 LU. However, only 12 animals ((6 cows ($6*0.8 = 4.8\text{LU}$) and 6 calves (6–12 months = $6*0.4 \text{ LU} = 2.4 \text{ LU}$) or 7.2 LU) are found at inspection. The percentage of over declaration/non-compliance is $16.0 \text{ LU} - 7.2 \text{ LU} = 8.8 \text{ LU}$. This is equal to $8.8/7.2 = 1.22 * 100 = 122.22\%$. The over declaration is for more than 3 animals and more than 50% and therefore no payment will be made in relation to this animal-related measure for the claim year concerned. An additional penalty of an amount equal to the difference between the number of animals claimed and the number of animals eligible for payment (determined) will be applied ($16 \text{ LU} - 7.2 \text{ LU} = 8.8 \text{ LU}$. This is equal to $8.8\text{LU}*£95 = £836.00$). This further penalty will be offset and recovered against claims made in the following three years. Any penalty amount that cannot be recovered over three years will have the balance cancelled.

Payment will be calculated as follows:		
Number determined (LU)	7.2 *£95	£684.00
Penalty (withheld)		£684.00
Amount to be paid		£ 0.00
Additional Penalty to be applied (16.0-7.2 LU)	8.8*£95	£ 836.00

This further penalty will be offset and recovered against claims made in the following three years. Any penalty amount that cannot be recovered over three years will have the balance cancelled.

Example 4:

A business has an agreement for 10 Irish Moiled cattle (8.0 LU) and has claimed as follows:

1 @ 0.8 LU
 2 @ 0.6 LU
 7 @ 0.4 LU a total of 4.8 LU (10 animals)

However, it is established that the number of animals eligible for payment (determined) are as follows:

1 @ 0.8 LU
 2 @ 0.6 LU
 3 @ 0.4 LU a total of 3.2 LU (6 animals)

Payment is reduced as follows:

Over declaration = 4.8 LU - 3.2 LU = 1.6 LU
 % Over declaration = $1.6/3.2 = 0.5 * 100 = 50\%$.

The over declaration is for more than 3 animals but **not more than** 50% and therefore no payment will be made in relation to this animal-related measure for the claim year concerned.

Payment will be calculated as follows:

Number determined (LU)	3.2*£95	£ 304.00
Penalty (withheld)		£ 304.00
Amount to be paid		£ 0.00

Penalty Matrix 5 - EFS Option/capital item is not managed as set out in Capital works and/or Recurring annual management requirements in the Option/capital item Information Sheet, excluding minimum amount for completion and record keeping and/or breach of Baseline Requirements

If the Agreement Holder breaches the terms of the EFS Agreement, reductions may be applied to the payment. DAERA will determine the level of reduction to be applied, taking into account:

- the **severity** of the breach
- the **extent** of the breach
- the **duration** of the breach, and
- whether it is an isolated or a repeat **occurrence**.

A reduction may be applied to the current year's claim (refusal) and also to previous years' claims (withdrawal), unless the Agreement Holder can demonstrate compliance in previous years. In some cases, future years' payments can also be reduced.

A brief explanation of how breaches are assessed for severity, extent, duration and recurrence is set out below.

Severity	DAERA will make an assessment to determine the impact of the breach/non-compliance and will take into account the objectives of the Agreement or Options/capital items that were not met. A breach will be deemed to be either low or high severity. For example, ploughing a priority habitat would be classed as a high severity breach.
Extent	This will depend on the particular effect the non-compliance has on the Option/capital item as a whole. It would also reflect how much of the Option/capital item has been breached. So, for example, if an Option/capital item has an area of 2.00 ha and a breach was found to affect more than 50% of this land, then the breach would be considered to be a high extent.
Duration	Consideration will also be given to the length of time the effects of the breach last and whether it is possible to remedy the breach by reasonable means. For example, some breaches may be rectifiable within the scheme year, some may be rectifiable within the period of the Agreement but others may not be rectifiable within the period of the Agreement.
Recurrence	This assessment will depend on a number of factors, for example whether a similar event of non-compliance has been found in previous scheme years, and whether the re-occurrence concerns the same or similar measure (for example agri-environment or organic).

Tables 4 and 5 below detail the impacts of low and high severity breaches on an EFS agreement.

Table 4: EFS Recurring Annual Management Requirements - Low Severity Penalty Matrix

Severity	Extent	Duration	Consequence of non-compliance		Recurrence	
			1 st Occurrence Initial action/ % reduction applied to Option/capital item	If not rectified within agreed period % reduction applied to Option/capital item and recoveries	1st	2nd
LOW	Low - Up to and including 10% of the area / length / unit	Rectifiable within the scheme year, or a period specified by DAERA	Warning Letter	10%**	Double the reduction for each category	Triple the reduction for each category Review continued participation in the Scheme
		Rectifiable within the period of the agreement	10%*	20%**		
		Not rectifiable within the period of the agreement	Withhold current year Option/capital item payment for the area/length/units affected by the breach. Recover all previous payments for the area/length/units affected by the breach, with interest. Withhold all future payments for the Option/capital item area/length/units affected by the breach.			
	Medium - over 10% and up to and including 50% of the area/length/unit	Rectifiable within the scheme year	10%*	20%**		
		Rectifiable within the period of the agreement	20%*	30%**		
		Not rectifiable within the period of the agreement	Withhold current year payment x2 for the Option/capital item area/length/units affected by the breach Recover all previous payments for the area/length/units affected by the breach, with interest. Withhold all future payments for the Option/capital item area/length/units affected by the breach.			
	High - more than 50% of the area/length /unit	Rectifiable within the scheme year	30%*	40%**		
		Rectifiable within the period of the agreement	50%*	Withhold full payment for the EFS Option/capital item in question. Recover all previous payments for area/length/units affected by the breach, with interest. Reduce future years' payments by the area/length/units affected by the breach.		
		Not rectifiable within the period of the agreement	Withhold full current year payment for the EFS Option/capital item in question. Recover all previous payments for area/length/units affected by the breach, with interest. Reduce future payments by the Option/capital item area/length/units affected by the breach.			

* Percentage reduction applies to the relevant Option/capital item for the year of the finding of the breach.

** Percentage reduction applies to the relevant Option/capital item for the year of the finding of the breach plus recovery of all previous payments for the area/length/units affected by the breach, with interest. Also all future payments for the Option/capital item will be reduced by the area/length/units affected by the breach.

Table 5: EFS Recurring Annual Management Requirements - High Severity Penalty Matrix

Severity	Extent	Duration	Consequence of non-compliance		Recurrence	
			1 st Occurrence Initial Action/ % Reduction applied to Option/capital item	If not Rectified within agreed period % Reduction applied to Option/capital item and recoveries	1st	2nd
HIGH	Low - Up to and including 10% of the area/length/unit	Rectifiable within the scheme year, or a period specified by DAERA	40%*	50%**	Double the reduction for each category	Triple the reduction for each category Review continued participation in the Scheme
		Rectifiable within the period of the agreement	50%*	60%**		
		Not rectifiable within the period of the agreement	Withhold current year Option/capital item payment for the area/length/units affected by the breach. Recover all previous payments for the area/length/units affected by the breach, with interest. Withhold all future payments for the Option/capital item area/length/units affected by the breach.			
	Medium – 10% and up to and including 50% of the area/length/ unit	Rectifiable within the scheme year	60%*	70%**		
		Rectifiable within the period of the agreement	70%*	80%**		
		Not rectifiable within the period of the agreement	Withhold full current year payment for the EFS Option/capital item in question. Recover all previous payments for area/length/units affected by the breach, with interest. Reduce future payments by the Option/capital item area/length/units affected by the breach			
	High - more than 50% of the area/length/unit	Rectifiable within the scheme year	90%*	100%**		
		Rectifiable within the period of the agreement	100%*	Withhold full current year payment for the EFS Option/capital item in question. Recover all previous payments for the Option/capital item in question, with interest. Exclude payment for the same Option/capital item affected by the breach for the following calendar year		
		Not rectifiable within the period of the agreement	Withhold full current year payment for the EFS Option/capital item in question. Recover all previous payments for the Option/capital item in question affected by the breach, with interest. Exclude payment for the same Option/capital item affected by the breach for the following calendar year			

* Percentage reduction applies to the relevant Option/capital item for the year of the finding of the breach.

** Percentage reduction applies to the relevant Option/capital item for the year of the finding of the breach plus recovery of all previous payments for the area/length/units affected by the breach, with interest. Also all future payments for the Option/capital item will be reduced by the area/length/units affected by the breach.

Example 1

2.00 ha of Retention of winter stubble (RWS) Option has been approved and claimed. RWS is a separate crop group as it does not have the same payment rate as any other EFS Option or non-productive investment.

At OTSC in Year 1 it was determined that the 2.00 ha of RWS was established but 0.20 ha (10%) of the Option area had been treated with a non-selective herbicide. This is a breach of Control Code RWS3M but not an EFS baseline requirements breach.

This breach is low severity, low extent (up to and including 10% of the Option/crop group area) and is rectifiable within the period of the agreement. It is a first occurrence as the Business ID does not have a history of a similar breach. The low severity penalty matrix at Table 4 above determines that this breach will result in the application of a 10% reduction in the payment for the Option/crop group in the current claim year.

Payment will be calculated as follows

Agreement	2.00 ha RWS	£85.00*2	£170.00
Claimed	2.00 ha RWS	£85.00*2	£170.00
Determined	2.00 ha RWS	£85.00*2	£170.00
Severity			Low
Extent	0.2/2.00*100 =10%		Low
Duration	Rectifiable within period of agreement		
Penalty (Table 3)			10%
Penalty value	£170.00/100*10		£17.00
Payment	£170.00 - £17.00		£153.00

Example 2

200 metres of Creation of riparian buffer – 10 metre width – ungrazed (RBW) Option has been approved and claimed. RBW is a separate crop group as it does not have the same payment rate as any other EFS Option or non-productive investment.

At OTSC in Year 3 it was determined that the 200 metres of RWS was established but the entire Option area had been grazed with cattle. This is a breach of Control Code RBW5M but not an EFS baseline requirements breach.

This breach is low severity, high extent (more than 50% of the Option/crop group area) and is rectifiable within the scheme year. It is a first occurrence as the Business ID does not have a history of a similar breach. The low severity penalty matrix at Table 4 above determines that this breach will result in the application of a 30% reduction in the payment for the Option/crop group in the current claim year.

Payment will be calculated as follows

Agreement	200 m RBW	£0.36*200	£72.00
Claimed	200 m RBW	£0.36*200	£72.00
Determined	200 m RBW	£0.36*200	£72.00
Severity			Low
Extent		100%	High
Duration		Rectifiable within scheme year	
Penalty (Table 3)			30%
Penalty value		£72.00/100*30	£21.60
Payment		£72.00 - £21.60	£50.40

If the non-compliance is not rectified within the period specified by DAERA this penalty will be increased to 40% of the payment for the year of finding of the breach plus recovery of all previous payments for the area/length/units affected by the breach, with interest. Also all future payments for the Option/capital item will be reduced by the area/length/units affected by the breach.

Example 3

5.00 ha of Purple moorgrass and rush pasture (PRG) and 3.00 ha of Coastal and flood plain grazing – restricted grazing (CFR) Options have been approved in the EFS (H) ssRMP for the Business ID. In Year 2 the Business ID claimed 5.00 ha of PRG and 2.90 ha of CFR. PRG and CFR are treated as a single crop group as the payment rate is the same for both options.

At OTSC in Year 1 it was determined that the 1.00 ha of PRG had been reseeded. This is a breach of Control Code PRG1M, displayed as HFLA3 on DAERA IT system records, but not an EFS baseline requirements breach.

This breach is high severity, medium extent (over 10% and up to and including 50% of the Option/crop group area) and is not rectifiable within the period of the agreement. It is a first occurrence as the Business ID does not have a history of a similar breach. The high severity penalty matrix at Table 5 above determines that the penalty for this breach will be to withhold full current year payment for the EFS Option/capital item/crop group in question, recover all previous payments for the Option/capital item/crop group affected by the breach, with interest and to exclude payment for the same Option/capital item/crop group affected by the breach for the following calendar year.

Payment will be calculated as follows:

Agreement	5.00 ha PRG 3.00 ha CFR	£180.00*5.00 £180.00*3.00	£900.00 £540.00
Crop group total			

APPENDIX D

	8.00 ha	£180.00*8.00	£1440.00
Claimed	5.00 ha PRG 2.90 ha CFR	£180.00*5.00 £180.00*2.90	£900.00 £522.00
Crop group total	7.90 ha	£180.00*7.90	£1422.00
Determined	5.00 ha PRG 2.90 ha CFR	£180.00*5 £180.00*2.90	£900.00 £522.00
Crop group total	7.90 ha		£1422.00
Severity		High	
Extent	(1.00/7.9*100 = 12.66%)	Medium	
Duration		Not rectifiable within period of agreement	
Penalty (Table 4)		Withhold crop group payment	
Penalty value	£180.00/*7.90	£1422.00	
Payment		£0.00	

Recovery of previous payment is not applicable as the breach was detected in Year 1. No payment will be made for the 1.00 ha area impacted by the breach for the remaining years of the scheme.

Annex 1: EFS Minimum Eligibility Criteria

Business ID category	Category 1 or Category 2 Business ID is required
EFS Minimum area	Minimum 3 ha MEA required

Annex 2: EFS Baseline Requirements

Cross-Compliance

Relevant SMR	SMR 1	Protection of water against nitrates pollution
	SMR 2	Conservation of wild birds
	SMR 3	Conservation of natural habitats and of wild flora and fauna
	SMR 4	Food and Feed Law
	SMR 5	Restrictions on the use of substances having hormonal or thyrostatic action and beta-agonists in farm animals
	SMR 6	Pig identification and Registration
	SMR 7	Cattle identification and Registration
	SMR 8	Sheep and Goat identification and Registration
	SMR 9	Prevention, Control and Eradication of Transmissible Spongiform Encephalopathies (TSE)
	SMR 10	Restrictions on the use of Plant Protection Products
	SMR 11	Minimum standards for the protection of calves
	SMR 12	Minimum standards for the protection of pigs
	SMR13	Protection of animals kept for farming purposes
Relevant GAEC	GAEC 1	Establishment of buffer strips along watercourses
	GAEC 2	Where use of water for irrigation is subject of authorisation, compliance and authorisation procedures
	GAEC 3	Protection of Groundwater against pollution
	GAEC 4	Minimum Soil Cover
	GAEC 5	Minimum land management reflecting site specific conditions to limit erosion
	GAEC 6	Maintenance of soil organic matter through appropriate practices
	GAEC 7	Retention of landscape features

Legislative Requirements

<p>Minimum requirements for Fertilisers and Plant Protection Products</p>	<p>Fertilisers Nutrient Action Programme Regulations (Northern Ireland) 2019 (as amended) Nutrients Action Programme (NAP) 2019 -2022: https://www.daera-ni.gov.uk/nutrientsactionprogramme2019-2022 The Code of Good Agricultural Practice for the Prevention of Pollution of Water, Air and Soil https://www.daera-ni.gov.uk/publications/code-good-agricultural-practice-cogap Fertiliser Manual (RB209) Plant Protection Products The Plant Protection Products Regulations (Northern Ireland) 2011 (as amended) http://www.legislation.gov.uk/ The Plant Protection Products (Sustainable Use) Regulations 2012 http://www.pesticides.gov.uk/ NI Code of Practice for using Plant Protection Products https://www.daera-ni.gov.uk/articles/code-practice-using-plant-protection-products SMR 10 Restriction on the use of plant protection products.</p>
<p>Other relevant national/regional requirements</p>	<p>The Wildlife (Northern Ireland) Order 1985 Wildlife and Natural Environment Act (Northern Ireland) 2011 Conservation (Natural Habitats etc.) (Amendment) Regulations (Northern Ireland) 2007 The Environment (Northern Ireland) Order 2002 The Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (Northern Ireland) 2003 (SSAFO) Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017 as amended The Water (Northern Ireland) Order 1999 Nitrates Action Programme Regulations (Northern Ireland) 2014 The Plant Protection Products (Sustainable Use) Regulations 2012 The Control of Pesticides Regulations (Northern Ireland) 1987 as amended by the Control of Pesticides (Amendment) Regulations (Northern Ireland) 1997</p>

Appendix E Glossary of Terms

For the purposes of the Scheme:

Additional Capital Items: capital items available to complement certain management options (see capital items below).

Agreement Document: the document which describes the EFS Options and/or Capital Items to be undertaken by the Agreement holder and the payment rate associated with each EFS Option and/or capital items.

Agreement End Date: the date on which the Agreement comes to an end, as set out in the Agreement Document.

Agreement holder: the member or members of the DAERA farm Business ID identified as the Agreement holder in the Agreement Document.

Agreement Start Date: the date on which the Agreement commences, as set out in the Agreement Document.

Agricultural land is any area of land in Northern Ireland which is registered as a parcel on the Land Parcel Identification System (LPIS). These areas may include land which is deemed to be ineligible for Basic Payment Scheme.

Agro-forestry: is a land use management system which integrates trees with crops and/or livestock on the same plot of land.

Areas of Special Scientific Interests (ASSIs) are protected areas that represent the best of our wildlife and geological sites that make a considerable contribution to the conservation of our most valuable natural places. The law relating to ASSIs is contained in the [Environment Order \(Northern Ireland\) 2002, Part IV](#).

Authority: Department of Agriculture, Environment and Rural Affairs (DAERA).

Capital Items: are made up of those which are 'Essential Capital work(s)' and those which are 'Additional Capital Work(s)' and are often referred to as Non-Productive Investments.

Controls: refer to the methods of checking EFS (H) requirements compliance. Checks may be administration, Control with Remote Sensing (CwRS) or by On-the-Spot Checks (OTSC).

Ecological Focus Areas (EFAs): are a Greening requirement for arable farmers who submit a claim under the Basic Payment Scheme.

Eligibility: refers to the basic requirements necessary to permit entry to EFS (H).

Eligibility criteria are the requirements that the EFS (H) Agreement holder must satisfy at scheme entry and adhere to for the duration of the EFS (H) Agreement.

Essential Capital Items: is a term used to describe the capital items that an EFS (H) Agreement holder is required to undertake to establish the EFS (H) Option as set out in the EFS (H) Agreement.

Field boundaries: include dry stone walls, ditches, earth banks, hedges and rows of trees.

Fertiliser: as defined in the The Nitrates Action Programme Regulations (Northern Ireland) 2014 and The Phosphorus (Use in Agriculture) Regulations (Northern Ireland) 2014 and is considered to be any substance containing plant nutrients which is applied to land to enhance crop growth. It includes chemical fertiliser and all types of organic manure including livestock manure.

Field operations: include cultivation, direct drilling, surface seeding, chain harrowing, reclamation, mineral extraction (for example gravel, sand or rock removal), dumping, infilling, new drainage, construction of new lanes, field application of fertiliser (organic or chemical), lime, herbicide, pesticide, insecticide, sheep dip, fungicide, basic slag, sewage sludge, other industrial sludge/by product, for example creamery or food processing waste, supplementary feeding, temporary silage clamps and storage of big bale silage.

Greening: All farmers applying for payment under the Basic Payment Scheme will have to comply with greening requirements on all the eligible agricultural land on their holding. In return, they will receive a Greening Payment calculated as a percentage of the total value of the Basic Payment Scheme entitlements they activate each year.

Habitat: means the natural home or environment of an animal, plant or other organism.

Herbicides: a pesticide that is used to control unwanted plants.

Integrated Pest Management (IPM): is a process used to solve pest problems while minimising the risk to people and the environment.

Livestock unit (LU): refers to a unit of measurement for livestock numbers.

Dairy cow:	1
Beef cow:	0.80
Breeding Bull:	1
Calf, <1yr:	0.40
Ewe:	0.15
Ewe and Lamb:	0.20
Sheep >1yr old:	0.20
Horse:	0.80

Non-Productive Investments (NPIs): are **Capital Items** - see Capital Items definition above

Pesticides: a chemical used to kill harmful pests. These include insecticides, herbicides, molluscicides and fungicides.

Protection zone is a specified area around an important site. Activities within these areas are restricted.

RAMSAR: are wetland sites of international importance designated under the Ramsar Convention (1971).

Riparian buffer: is the marginal area along a waterway and/or standing waters such as lakes and ponds.

Short Rotation Coppice (SRC): is an energy crop which usually consists of densely planted, high yielding varieties of poplar or willow.

Special Area of Conservation (SAC): is a site designated under the Habitats Directive (1992/43/EEC).

Special Protection Area (SPA): is a site designated under the Birds Directive (2009/147/EC).

Site specific Remedial Management Plan (ssRMP): a site specific plan completed by a EFS Planner on behalf of the Applicant for land to be managed under EFS (H) which details the EFS Options and capital items to be completed to bring the land under favourable management.

Working day: any day other than a Saturday, a Sunday or a public holiday in Northern Ireland.

Appendix F **Abbreviations**

APHIS:	Animal and Public Health Information System	
ASSI:	Area of Special Scientific Interest	
BPS:	Basic Payment Scheme	
CMS:	Countryside Management Scheme	
CwRS:	Control with Remote sensing	
DAERA:	Department of Agriculture, Environment and Rural Affairs	
DfC:	Department for Communities	
DUC:	Dual Use Claim	
EFA:	Ecological Focus Area	
EFS:	Environmental Farming Scheme	
EU:	European Union	
GPS:	Global Positioning System	
IPM:	Integrated Pest Management	
LPIS:	Land Parcel Identification System	
MEA:	Maximum Eligible Area	
NESA:	New Environmentally Sensitive Areas Scheme	NIFAIS: Northern
Ireland Food	Animal Information System	
NPI:	Non-Productive Investment	
NNR:	National Nature Reserve	
OTSC:	On the Spot Check	
ssRMP:	site specific Remedial Management Plan	
SAC:	Special Area of Conservation	
SPA:	Special Protection Area	
SRC:	Short Rotation Coppice	
VAT:	Value Added Tax	

Appendix G Contact details

Please quote the relevant Business Identification Number on all correspondence.

Email: efs@daera-ni.gov.uk

Telephone: 0300 200 7848

Useful Addresses: If you wish to send your query by post you should send it to:

DAERA Countryside Management Delivery Branch
Molesworth Place, Molesworth Street, Cookstown, Co Tyrone BT80 8NX

It is advised that email or telephone is used as the main methods of contact while COVID-19 restrictions remain.

Or if COVID-19 restrictions allow, you can visit your local DAERA Direct Office as listed below:

Opening hours Monday to Friday - 10.00am – 12.30pm | 1.30pm – 4.00pm

Armagh Atek Building Edenaveys Industrial Estate Newry Road Edenaveys Co. Armagh BT60 1NF	Ballymena Academy House 121A Broughshane Street Town Parks Ballymena Co. Antrim BT43 6HY	Coleraine Crown Buildings Artillery Road Millburn Coleraine Co. Derry/Londonderry BT52 2AJ
Downpatrick Rathkeltair House Market Street Demesne of Down Acre Downpatrick Co. Down BT30 6LZ	Dungannon Crown Buildings Thomas Street Drumcoo Dungannon Co. Tyrone BT70 1HR	Enniskillen Innishkeen House Killyhevlin Enniskillen Co. Fermanagh BT74 4EJ
Mallusk Castleton House 15 Trench Road Grange of Mallusk Mallusk Newtownabbey Co. Antrim BT36 4TY	Magherafelt Units 36-38 Meadowlane Shopping Centre Moneymore Road Townparks of Magherafelt Magherafelt Co. Derry/Londonderry BT45 6PR	Newtownards Sketrick House 16 Jubilee Road Corporation South Newtownards Co. Down BT23 4YH
Newry Glenree House Unit 2, Springhill Road Carnbane Industrial Estate Carnbane, Newry Co. Down BT35 6EF	Omagh Sperrin House Sedan Avenue Lisnamallard Omagh Co. Tyrone BT79 7AQ	Strabane Government Offices 18 Urney Road Strabane BT82 9BX

Appendix H DAERA Privacy Statement

The Department takes data protection, freedom of information and environmental information issues seriously. It takes care to ensure that any personal information supplied to it is dealt with in a way which complies with the requirements of the General Data Protection Regulation (GDPR).

This means that any personal information you supply will be processed principally for the purpose for which it has been provided. However, the Department is under a duty to protect the public funds it administers, and to this end may use the information you have provided for this purpose. It may also share this information with other bodies responsible for the audit or administration of public funds, in order to prevent and detect crime.

For more information, please refer to the following link:

<https://www.daera-ni.gov.uk/daera-privacy-statement>



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