

Guide to Business Change

Please read this guidance carefully before completing any of the following:

Form BC1 - Business Change Notification

Form BC3 - Business Merger Notification

Form BC4 - Business Scission Notification

Sustainability at the heart of a living, working, active landscape valued by everyone.



Department of
**Agriculture, Environment
and Rural Affairs**

www.daera-ni.gov.uk



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- Paper Copy
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To get a copy of this document in another format contact:

Area-based Schemes Delivery Support Branch
Orchard House
40 Foyle Street
Derry/L'Derry
BT48 6AT

Tel: 0300 200 7848

Email: ABS.deliverysupport@daera-ni.gov.uk



2023 Scheme Year

1. Key Dates to Remember

The Guide to Business Changes is no longer year specific (i.e. where a date falls on a Saturday, Sunday, or Public we have not adjusted the date). You must refer to the DAERA website for further guidance on key dates for 2023 <https://www.daera-ni.gov.uk/topics/grants-and-funding/area-based-schemes-2023>

2. UK Exit from the EU (Brexit)

Legislation.

EU direct payment regulations are reapplied in UK law by the Direct Payments to Farmers (Legislative Continuity) Act 2020 and have been amended by secondary legislation made under the Direct Payments to Farmers (Legislative Continuity) Act 2020 and the Agriculture Act 2020.

References in this guidance and on the single application to EU direct payment regulations and legislation are to be taken as references to those provisions, as retained in UK law.

3. Dormant Businesses

We have carried out an exercise to identify Category 1 businesses which have not been active for in a number of scheme years and are now considered to be dormant. These businesses have not (i) claimed for any area-based schemes **and** (ii) held Basic Payment Scheme (BPS) entitlements **and** (iii) had an active herd or flock in either two previous scheme years or five previous scheme years.

This exercise will be carried out annually.

4. How to return your form



All electronic forms (BC1, BC3 and BC4) should be emailed to areabasedschemes@daera-ni.gov.uk or posted to Area-based Schemes Payment Branch, Business Change Section, Orchard House, 40 Foyle Street, Derry/Londonderry BT48 6AT so that they arrive no later than 15 May 2023.

Form TE1 – Actual or Anticipated Inheritance can also be emailed or posted as above, but to be actioned in respect of the 2023 scheme year the must be received no later than 2 May 2023.

Form FB1 should be E-mailed, posted, or delivered in person to your local DAERA Direct Office.

These forms can be found at the following link:

[Forms -Area-based Schemes 2023 | Department of Agriculture, Environment and Rural Affairs \(daera-ni.gov.uk\)](#)



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SECTION 1 – BUSINESS CHANGE FORMS

1. Introduction

- 1.1 This Guide explains the relevant forms to use when notifying the Department of Agriculture, Environment and Rural Affairs (DAERA) of a farm business change.

2. Minor Changes

- 2.1 Minor changes are changes to **your** telephone/mobile number or email, whether you are a sole trader or a member of a multi-member business. You can make minor changes at any time via DAERA Online Services (using your Government Gateway or Northern Ireland Civil Service Identity Assurance (NIDA) login and password), or by emailing or writing to us, or in-person at any DAERA Direct Office listed at Section 6. You do not need to complete a Business Changes Form to make minor changes.
- 2.2 If you are a member of a Category 1 business and a **sole trader**, you can change your title, name or address at your local DAERA Direct Office, as long as you bring evidence to verify your ID.
- 2.3 If you are a member of a multi-member business you must complete Form BC1 - Business Change.

3. Form BC1 - Business Change Notification

- 3.1 You should use Form BC1 to notify DAERA of any change to your farm business that does not require a transfer of entitlements. This includes a change to a business address if you are a member of a multi-member business (see Section 3 for further information).

4. Form BC3 - Business Merger

- 4.1 You should use Form BC3 when two or more farm businesses are merging into one.
- 4.2 Form BC3 will also provide for the entitlements held by the farm businesses involved in the merger to be transferred to the new merged business. There is no need to submit Form TE1 - Transfer of Entitlements as well (see Section 3 for further information).
- 4.3 If the business merger is to take place for the current Basic Payment Scheme (BPS) scheme year, Form BC3 should be received by DAERA no later than 15 May.

5. Form BC4 - Business Scission (split)

- 5.1 You should use Form BC4 when a business is being divided up into two or more farm businesses.

5.2 Form BC4 will also provide for the entitlements held by the farm businesses involved in the scission to be transferred to the new businesses. There is no need to submit Form TE1 – Transfer of Entitlements as well. (See Section 3 for further information.)

5.3 If the business scission is to take place for the current BPS scheme year, Form BC4 should be received by DAERA no later than 15 May.

6 Form FB1 - New Farm Business

6.1 Some business changes, e.g. when businesses are split or when your business has been found to have been dormant for at least five scheme years (DBF), may also require a Form FB1 to be completed, to apply for a new business identifier (business ID). You are advised to read the 'Notes' which accompany Form FB1 which explain the procedures when applying for a new farm business ID. You only need to complete Form FB1 if you require a Category 1 business ID in order to claim BPS or any other area-related scheme on the Single Application (SA).

7 Transfer of Entitlements

7.1 You should use DAERA's Online Services if you are transferring entitlements by gift, sale or lease, if they are straightforward and do not involve a business change.

7.2 Form TE1 should be used if you are transferring entitlements by anticipated or actual inheritance.

7.3 Any transfer of entitlements between businesses, apart from those resulting from a merger or scission, **must** be completed through DAERA Online Services or notified to DAERA using Form TE1 by 2 May. **If 2 May falls on a Saturday, Sunday or Bank Holiday, the Department will accept applications on the next working day without penalty.**

7.4 You are advised to read the Guide to Transfer of Entitlements on the DAERA website for further information:

[Guides and Q&As to Area-based Schemes 2023 | Department of Agriculture, Environment and Rural Affairs \(daera-ni.gov.uk\)](https://www.daera-ni.gov.uk/guides-and-q-as-to-area-based-schemes-2023)

7.5 All forms can also be found on the DAERA website using the link below.

[Forms -Area-based Schemes 2023 | Department of Agriculture, Environment and Rural Affairs \(daera-ni.gov.uk\)](https://www.daera-ni.gov.uk/forms-area-based-schemes-2023)

8. Impact of a business change

8.1 You should be aware that a change in your business could have an impact on your BPS or other area-related schemes to which you have applied. You should consider whether the business change you are making is likely to conflict with the eligibility criteria under BPS or any other schemes under the SA.

8.2 Before completing any forms regarding business changes, transfer of entitlements or setting up a new farm business, you are strongly advised to read the relevant guidance documents, which can be downloaded from the DAERA website at:

[Guides and Q&As to Area-based Schemes 2023 | Department of Agriculture, Environment and Rural Affairs \(daera-ni.gov.uk\)](#)

SECTION 2 – CATEGORY 1 FARM BUSINESS STRUCTURE

9 Business IDs

- 9.1 DAERA is required to maintain a record of the identity of anyone who submits an application to receive funding. Each farm business must be registered with DAERA and have a unique business ID.
- 9.2 You must be registered with DAERA and obtain a Category 1 farm business ID to be eligible to claim payment under the BPS or other area-related schemes under the SA.
- 9.3 There are 3 categories of Business ID:

Category 1:

Subject to meeting scheme conditions a Category 1 business ID enables a business to hold payment entitlements, receive BPS and all other area-based scheme payments.

Category 2:

For projects applying for rural development funding measures, other than those measures where a Category 1 business ID is required. If the applicant already holds a Category 1 business ID a separate Category 2 business ID will not be provided.

Category 3:

For those farm businesses wishing to register as a keeper of a small number of animals. You will not be able to claim grant or subsidy with this business category. If the applicant already holds a Category 1 or 2 business ID a separate Category 3 business ID will not be provided.

10 New Category 1 Business ID

- 10.1 Where a business change results in the setting up of a new farm business, you must submit Form FB1. You **must be** fully separate and independent from any other farm business you have an interest in and you must be able to demonstrate your business meets certain criteria concerning the legal status, economic structure, commercial structure and operational management of the business.

11 Operational separateness

- 11.1 Operational separateness relates to the separateness of cropping, stocking, feed, fertiliser, stock housing, machinery, labour, land for grazing, livestock records, farm plans, registration, herd marks, etc. of a business. In particular, any herds / flocks must operate completely independently of any herds / flocks belonging to another business.

11.2 Farm businesses that are genuinely separate should be able to demonstrate their separateness with relative ease.

11.3 It is expected that each farm business ID (all categories) will normally be able to demonstrate the following:

- Separate farmyard, housing and handling facilities for animals.
- Herds / flocks not mixing with animals belonging to another business ID.
- Separate machinery (sharing of machinery that would typically occur between separate farms is acceptable but not to such an extent that one business is highly dependent on another business for machinery or in practice there is one set of machinery for both businesses).
- Feedstuffs, silage and other inputs are sourced independently and stored separately from that of another business.
- There are normal commercial trading arrangements for transfer of animals and purchase of inputs and capital equipment including with other farm businesses.
- Separate legal status (e.g. the business has separate accounts).

11.4 DAERA reserves the right to refuse or revoke a business ID where it considers that 2 or more businesses are not separate.

11.5 Contact your local DAERA Direct Office for further information and to obtain Form FB1, if you are unable to download this from our website. Contact details are listed at the end of this guide.

12 Business Structures

12.1 Payment under BPS will only be made to the person having the decision making power, benefits and financial risks in relation to the agricultural activity on the land for which activation (payment) of entitlements is requested. This is referred to as the 'active farmer' requirement and is based on all agricultural activity carried out on the land.

12.2 BPS payment entitlements are assigned to a farm business which may be made up of a sole trader or multi members.

- Sole Trader

A sole trader is where there is only one member in a farm business.

- Multi-member business

A multi-member business is regarded as a business where there are two or more members. **All entitlements belong to the farm business.**

13 Agricultural activity

13.1 Agricultural activity is defined as:

- (i) Production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes.
- (ii) Maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, based on criteria established the relevant authority.

13.2 All farm businesses **must** remain fully operationally separate and independent from each other as explained above. If you have commonly managed herds/flocks which are registered to another business, DAERA recommends you take immediate action to manage these herds/flocks independently, including separate grazing and housing. Alternatively, you should consider merging the businesses. Paragraph 14.2 refers.

14 Dormant Businesses

14.1 If your category 1 business has not:

- claimed for any area-based schemes **and**
- held Basic Payment Scheme (BPS) entitlements **and**
- had an active herd or flock in the last:

five scheme years - it will no longer be considered active unless you can provide required evidence. You can, if you wish, apply for a new business ID if you intend to recommence farming.

two scheme years – it will no longer be considered active unless you can provide required evidence or satisfy certain checks. It is important to note that, if you do not recommence farming, your business will be closed under the five year rule at the appropriate time. You will be advised of this by letter.

SECTION 3 – WHICH FORM TO USE WHEN NOTIFYING DAERA OF A BUSINESS CHANGE

15 Forms

- 15.1 You should ensure that the information DAERA holds in relation to your farm business is accurate and up-to-date and that you remain fully separate and independent from other farm businesses.
- 15.2 If there is a change to the farm business, you must notify DAERA of the change and the reason for it as soon as possible, using one of the following forms:

IMPORTANT NOTE: If your business has been confirmed DBF, your business has been closed and you will not be able to make any changes.

- **Form BC1 – Business Change**

Use Form BC1 to notify DAERA of changes that do not require a transfer of entitlements. This could be a change to the:

- legal status of a farm business e.g. from a sole trader to a partnership, partnership to sole trader, or from a partnership to a limited company
- trading title of a farm business
- membership of a farm business (someone joining or leaving the business)

If you are adding members to the farm business, these individuals **must, in person**, provide to a DAERA Direct local office, an acceptable form of photographic proof of identity before the change can take effect. The photographic proof of identity will not be retained or copied. The acceptable forms of photographic identification are:

- a UK, Irish or EEA driving licence (photographic part)
- a UK, Irish or EU passport
- an Electoral Identity Card
- a Translink Senior SmartPass
- a Translink 60+ SmartPass
- a Translink War Disabled SmartPass
- a Translink Blind Person's SmartPass
- a Translink Disabled SmartPass

- **Form BC3 - Merger**

Use Form BC3 to apply for a business merger (joining of farm businesses) and to request that the payment entitlements of those businesses merging are combined and transferred into the farm business set up as a result of the merger.

DAERA has controls in place to ensure that, as far as possible, each business ID is allocated to an independent and separate business, both in status and in practice.

Where DAERA finds (e.g. at inspection) that two businesses are associated and are not operationally separate, the businesses will be required to merge. Similarly, two or more separate farm businesses may decide to combine to create one business, with a singular approach to management, benefits and financial risks.

Current Business IDs will be revoked and a new Business ID will be allocated on approval of the merger and payment entitlements will be combined and transferred into the newly merged business.

- **Form BC4 - Scission**

Use Form BC4 if you want to divide a farm business into 2 or more businesses and a request for the payment entitlements held by the original business divided up between the businesses formed as a result of the scission.

Form BC4 is a joint application and must be signed by all the members of the original farm business **and** the farmers managing the farm businesses created as a result of the scission. The application should detail which payment entitlements should be allocated to each new farm business.

In order to recognise the scission the following conditions must be met:

- Where the **original farm business** is divided into at least 2 **new separate farm businesses**, **one** of those new businesses **must be controlled**, in terms of management, benefits and financial risks, **by at least one** of the farmers (natural or legal) **who controlled the original business**;

or

- Where **the original farm business** is divided into at least **one new farm business**, **the remaining part of the original business must continue to be controlled** in terms of management, benefits and financial risks **by the farmer originally managing that business**.

Form BC4 will be assessed in order to determine whether the new businesses are separate from each other and the original business. Documentary evidence may be required by the applicants in support of Form BC4 and this may include:

- a copy of a Deed of Transfer
- a Lease Agreement
- appropriate legal documentation confirming how the business assets have been split
- a copy of the business accounts, in cases where the parties indicate that the total value of the entitlements may be divided on the basis of the % shares held / profits taken by each member of the original business.

15.3 Examples of when to use the forms can be found at Annex A.

16 Minors

- 16.1 DAERA regards a person under the age of 18 as a minor. Only a responsible adult can act for a farm business until such times as the minor comes of age and in such circumstances, the responsible adult undertakes the risks, responsibilities and obligations associated with a business.
- 16.2 On reaching the age of 18, the minor should contact the Business Change Section on 0300 200 7848 or, by email at areabasedschemes@daera-ni.gov.uk

SECTION 4 – DEADLINE FOR SUBMITTING BUSINESS CHANGE FORMS

17. Deadlines

- 17.1 Form BC1 can be submitted at any time, when no transfer of entitlements is involved.
- 17.2 Forms BC3 (merger) and BC4 (scission) should be submitted to DAERA by **15 May, if the change is to take effect for the current scheme year**. In certain circumstances, DAERA will accept Form BC3 after 15 May (e.g. where DAERA finds that businesses are not separate).
- 17.3 Form FB1 (application for a new farm Business ID) can be submitted at any time but this should be as soon as you are wanting to set up a new business and well in advance of wanting to receive entitlements by transfer. This is because if you are receiving entitlements as a new farm business, you must be registered and approved with DAERA as a Category 1 business, before a transfer of entitlements can be approved.

SECTION 5 – GENERAL POINTS TO REMEMBER

18. Nomination of authorised person

- 18.1 If you have authorised a person to act on behalf of your farm business in relation to BPS and they complete **any forms** on your behalf, **it is your responsibility to ensure that the information provided is correct.**
- 18.2 When you authorise someone to act on your behalf, this authorisation will remain in place until you tell us otherwise. We will consider any information provided by the authorised person to have been provided by you.
- 18.3 DAERA **will not be liable** for any direct or indirect loss or liability to you as a result of the authorised person (agent or form filler) acting on your behalf.

19. Enforcement of Judgement Office (EJO) Orders under the Crown Proceedings Act 1947 / Bankruptcy Orders

- 19.1 When an EJO / Bankruptcy Order exists against you or your farm business, you are advised to make a case in writing to the EJO / Trustee, explaining your intention to move the value of your entitlements to (or between) another farm business(es). This will allow the EJO / Trustee to contact your creditors to see if they are content for this to go ahead.
- 19.2 A check will be carried out to confirm with the EJO / Trustee if the Order restricts the transfer of assets including payment entitlements. If so, then the request to move the value of your entitlements to another farm business will be rejected.
- 19.3 A member of a business cannot leave the business unless the EJO has been discharged or permission has been granted by the Courts.

20. Debts and business changes involving a transfer of payment entitlements

- 20.1 Where the business change involves a transfer of payment entitlements, **it is important to be aware that** the leaving, retiring, or death of an individual from a business **does not** extinguish the debt of the business and we would continue to deduct the debt/penalty from future direct payments made to that business.
- 20.2 New members added to an original business should be aware that they **will be responsible for any recovery of undue payments**, even when the debt occurred when they were not members of that business.

21. Outstanding debts and penalties against the original farm business

- 21.1 In accordance with Article 63 of Regulation 1306/2013 and Article 7 of Commission Implementing Regulation 809/2014, DAERA is legally obliged to recover any undue payments and entitlements. The only exception to this is if the payment was made in error by the competent authority (DAERA) and if the error could not have been reasonably detected by the farmer.

21.2 Debts would usually arise due to an overpayment of subsidy in previous years, while penalties are required to be offset against future payments. Normally in both these cases DAERA would reduce future direct payments made to the business, unless the overpayment was previously repaid.

21.3 Therefore, any business changes will only be permitted if the new business (and its members) indicates their agreement to discharge any outstanding debt / penalty of the original business(es) and any retrospective debts identified in future years.

22. Approval/acceptance of business changes

22.1 The approval or acceptance of a business change does not imply that you are eligible or will receive a payment under the BPS or any other area-related payment scheme.

22.2 All applications for a business change will be considered in the context of the provisions of Article 60 of Regulation (EC) 1306/2013. If there is a suspicion that a farmer or a farm business has artificially created the conditions for obtaining payments, contrary to the objectives of BPS, YFP or any other payment scheme, then such a claim will be thoroughly investigated.

22.3 The business or businesses resulting from the business change must reflect the actual situation in practice.

22.4 If a false statement is knowingly or recklessly made to obtain payment under BPS, YFP or any other payment scheme, the farm business is liable to prosecution. Furthermore a false statement will lead to the loss of the whole claim and recovery of any payment made.

22.5 Business IDs will be revoked and new business IDs issued where the business change involves a merger or scission or any other change that requires a new business ID to be issued.

22.6 If your business has not been active in the past five scheme years, you will not be able to make any changes.

22.7 You are advised to read all other Guides available, in particular the:

- Guide to the Basic Payment Scheme (includes guidance on the Protein Crops Scheme), and
- Guide to Transfer of BPS Entitlements

22.8 Guides are for information only and should not be regarded as a legal interpretation of the Regulations governing BPS.

22.9 Applicants are advised to take independent legal advice, as necessary, to ensure their interests are looked after.

SECTION 6 – CONTACT DETAILS

Completed Forms BC1, BC3, BC4 and TE1 should be returned to:

Department of Agriculture, Environment and Rural Affairs
Area-based Schemes Payment Branch,
Orchard House
40 Foyle Street
Derry/Londonderry
BT48 6AT

The completed **Form FB1**, along with all relevant documentation needed to prove you are an active farm business, should be returned to your local DAERA Direct Office.

All DAERA telephone calls are handled via NI Direct.

Phone 0300 200 7848 and ask for Area-based Schemes Business Changes Section, or the DAERA Direct Office closest to you.

DAERA Direct Offices

Armagh A:tek Building Edenaveys Industrial Estate Newry Road Edenaveys ARMAGH BT60 1NF	Ballymena Academy House 121a Broughshane Street Town Parks BALLYMENA BT43 6HY	Coleraine Crown Buildings Artillery Road Millburn COLERAINE BT52 2AJ
Downpatrick Rathkeltair House Market Street Demesne of Down Acre DOWNPATRICK BT30 6LZ	Dungannon Crown Buildings Thomas Street Drumcoo DUNGANNON BT70 1HR	Enniskillen Inishkeen House Killyhevlin Industrial Estate Killyhevlin ENNISKILLEN BT74 4EJ
Magherafelt Units 36 - 38 Meadowlane Shopping Centre Moneymore Road Townparks of Magherafelt MAGHERAFELT BT45 6PR	Mallusk Castleton House 15 Trench Road Grange of Mallusk Mallusk NEWTOWNABBEY BT36 4TY	Newry Glenree House Unit 2, Springhill Road Carnbane Industrial Estate Carnbane NEWRY BT35 6EF
Newtownards Sketrick House 16 Jubilee Road Corporation South NEWTOWNARDS BT23 4YH	Omagh Sperrin House Sedan Avenue Lisnamallard OMAGH BT79 7AQ	Strabane Government Offices 18 Urney Road STRABANE BT82 9BX

ANNEX A

EXAMPLES OF WHEN TO USE BUSINESS CHANGE FORMS

EXAMPLE	FORM TO BE COMPLETED	RETURN THE FORM TO
Business ID 000000 is adding a new member to the business and deleting another member	Form BC1 to notify change to DAERA	Area-based Schemes Payment Branch, Orchard House
DAERA has identified that one business has an association with herds / flocks registered to another farm business. Both businesses decide to merge as they are no longer operationally separate.	Form BC3 to merge 2 or more farm businesses and request a transfer of payment entitlements from the original businesses to the merged business.	Area-based Schemes Payment Branch, Orchard House
Original business has not been active for two scheme years. Business decides to split as the son/daughter is setting up as head of their own farm holding under the Young Farmers' Payment Scheme. Child must apply for a new farm business ID and must demonstrate that the new business is fully separate and independent from his original business. Original business will retain its Business ID and dormant – two years status. If the business does not recommence farming, it will be closed under the five year rule at the appropriate time and advised of this by letter.	Form BC4 to split a farm business into 2 or more separate businesses resulting from the scission. Form FB1 application for a new Business ID.	Area-based Schemes Payment Branch, Orchard House DAERA Direct local office
A farmer leaves one business and sets up on his own. The payment entitlements remain with the original business.	Form FB1 application for a new Business ID. Form BC1 to notify of member leaving original farm business.	DAERA Direct local office Area-based Schemes Payment Branch, Orchard House
Farmer A transfers entitlements to Farmer B. Straightforward transfer with no business changes to either business.	Application to transfer entitlements by gift, sale, lease or anticipated or actual inheritance – Form TE1.	DAERA Online Services Area-based Schemes Payment Branch, Orchard House

ANNEX A

EXAMPLE	FORM TO BE COMPLETED	RETURN THE FORM TO
Member of multi-member business dies* *Payment entitlements belong to a farm business and where a member of a multi member business dies, it does not require a transfer of entitlements.	Form BC1 to remove farmer from the business.	Area-based Schemes Payment Branch, Orchard House



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