

Less Favoured Area Compensatory Allowances (LFACA) Scheme 2015

Explanatory Notes

February 2014

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**Fairms an
Kintra Fordèrin**



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1 Introduction

The Less Favoured Area Compensatory Allowances (LFACA) 2015 scheme is part of the Northern Ireland Rural Development Programme (NIRDP) 2014 - 2020.

The NIRDP 2014 - 2020 is part financed by the European Agricultural Fund for Rural Development (EAFRD) and the Department of Agriculture and Rural Development (DARD).

The LFACA scheme supports farmers involved, for example, in hill farms in Northern Ireland's Less Favoured Areas (LFA). The LFA is a term used to describe areas of poorer agricultural land which qualify for special aid under European Union (EU) schemes. The LFA has two types of land, Severely Disadvantaged Area land (SDA) and Disadvantaged Area land (DA).

LFACA 2015 will be similar to the 2014 scheme except there is no longer a need to farm in LFA areas for at least five years.

The 5% check on dual use claims first introduced for LFACA 2014 will continue. It is essential that conacre tenants claiming LFACA have a written conacre agreement which they can produce if requested. Please check Section 9 on Leased Land carefully.

The scheme has two parts:

1. An area based payment for eligible hectares of SDA Land and DA land ; and
2. A `cattle bonus` which increases the area based payment for those producers who have 25% or more of their eligible Livestock Units (LUs) as suckler cows or heifers.

Briefly, to claim, you must:

- ✓ farm at least 3 hectares of eligible forage land (as defined in Section 2) in the SDA and/or DA;
- ✓ keep at least enough eligible stock to meet the minimum 0.2 livestock units (LUs) per hectare (ha) stocking density requirement throughout the period from 1st April 2014 to 31 October 2014;
- ✓ meet the Cross-Compliance requirements (as set out in Section 6);
- ✓ complete the 2014 IACS Single Application Form (SAF 1) and Field Data Sheet properly.

More detail on each of these points is given in these Notes.

We must apply the rules of the scheme in line with EU Regulations and domestic legislation. Please make sure you fully understand the rules of the scheme and can meet its requirements before you apply for the allowance.

Administrative checks and on-the-spot checks (including farm inspections) will be used to check that you meet the requirements of the scheme.

This booklet is not a full statement or interpretation of the law (which only the European Court of Justice can give) and it cannot replace specific advice on specific questions.

If you need any help with your application, please use the contact as shown below.

Phone: 0300 200 7848

Website Address: www.dardni.gov.uk/index/grants-and-funding

DARD Helpline: Tel: 0300 200 7852

Email: dardhelpline@dardni.gov.uk

2 Eligible forage land

You must farm at least three hectares of eligible forage land (which may include your share of common land) within the designated LFA in Northern Ireland.

Eligible forage land is land that:

- DARD has identified as either SDA or DA land;
- has been available to you to use for maintaining livestock or producing a forage crop for the entire seven-month period from 1 April 2014 to 31 October 2014; and
- has been correctly declared on the 2014 SAF 1 and Field Data Sheet under the land use codes FR1 and OT3. More details are given below.

FR1 GRASS (grass for grazing, hay and silage, rough grazing, grazed heather, lucerne, sainfoin, clovers, forage vetches).

Please note that heather is eligible if it is:

- accessible for grazing animals and has significant forage value; and
- used for agricultural purposes

It is ineligible if it is:

- inaccessible for grazing animals, or
- abandoned, that is, not in agricultural use, or
- not grazed within the past two years.

Heather is generally deemed ineligible if it is over-mature, that is, more than 50 cm tall and with no evidence of management of any kind.

If you have heather in your field you need to follow the advice in the “Guide to Land Eligibility” booklet to decide whether or not the heather is eligible. If it is not eligible, you should not claim for this land. You only need to record the eligible land use at column G of your Field Data Sheet.

OT3 Non-commercial grazed orchards, grazed woodlands or areas in agroforestry.

Grazed woodland or grazed orchards with more than 50 trees per hectare may be considered eligible if:

- there has been a history of/evidence of acceptable grazing practice and there is sufficient forage;
- grazing is not damaging the ecological values of the site, for example, by significantly reducing the number of existing tree seedlings and saplings or by reducing the occurrence of grazing sensitive plants.

If there are single trees, a line of trees or a clump of trees with grazing available right up to the trees, you do not need to make a deduction for the tree trunks.

If there is no grazing available under the trees or woodland is not currently being grazed, **then it is ineligible even if it had been previously used to support claims.**

The same area of land cannot be used by more than one farm business to claim payment for LFACA.

In deciding whether any areas of land should be deducted from your LFACA claim, you should pay careful attention to Section 4 Information relevant to online and paper applications of the “Guide on How to Complete your 2014 Single Application (SAF 1) and FDS. You will receive this guide along with your Single Application pack.

Although not eligible for LFACA payment, you must show the lowland you had available over the qualifying period as it is used when calculating milk quota reductions. We will use the milk quota held by you at 31 March 2014 and convert it to notional hectares at a rate of 10,000 litres = 1 hectare.

3 Eligible stock

For the purposes of the LFACA scheme eligible stock are:

- Suckler cows and heifers;
- Breeding ewes;
- Breeding female deer; and
- Breeding female goats.

If your animals have been imported from the Republic of Ireland, then it is your responsibility to provide supporting documentary evidence to prove their eligibility for the scheme. These documents must clearly show that animals have calved and achieved 1.0 livestock unit (LU) as a suckler cow. This information will then be included in the stocking density calculation for your claim.

For LFACA 2015, you must have carried out, on a continuous basis, one or more of the following eligible activities throughout the entire period of 1 April 2014 to 31 October 2014. That is, maintaining:

- a herd of suckler cows that form part of a regular breeding herd for the rearing of calves for meat;
- a flock of sheep comprising eligible ewes, as defined in Council Regulation (EC) No. 73/2009 (Article 100 (a));
- a breeding herd of farmed deer; or
- a herd of goats for milk or fibre production.

4 Stocking density

To qualify for LFACA 2015, your stocking density must be at least 0.2 LU/ha throughout the entire seven month period of 1 April 2014 to 31 October 2014.

Additionally, the number of heifers that can count as eligible stock must be no greater than 40% of your total number of suckler cows and heifers.

If your holding has an Agri-environment Scheme (AES) agreement or similar that sets a maximum stocking density at less than the LFACA minimum of 0.2 LU/ha, we may consider allowing the stocking density set in the agreement to replace the LFACA minimum stocking density requirement.

If you think this applies to you, please contact our LFACA Section on (028) 7131 9947 for advice.

You must provide a copy of the full agreement to enable us to consider your case. This document must be signed by the parties involved. It must also give the effective dates, clear details of the land covered and the stocking restrictions that apply.

You must produce the evidence we require in a form that is acceptable to us.

There is a worked example and a blank worksheet to help you calculate your stocking density at Annex A of this booklet.

5 Cattle bonus

To be eligible for the cattle bonus the number of suckler cows and heifers, expressed in livestock units (LU's), must be at least 25% of the total eligible animals, expressed in LU's, throughout the entire seven month period of 1 April 2014 to 31 October 2014.

Animals that can be included in the eligibility calculation for the bonus payment are suckler cows and heifers.

6 Cross-Compliance

In return for payment under the LFACA scheme, you must maintain your land in Good Agricultural and Environmental Condition (GAEC). You must also comply with a number of specific legal requirements known as Statutory Management Requirements (SMRs). This is known as Cross-Compliance. We may carry out inspections to verify that all the requirements relevant to your business are being met.

You may be penalised and your payment reduced if you do not meet the requirements of GAEC and the SMRs. Penalties for breaches of Cross-Compliance will be proportionate to the severity, extent, permanence and repetition of the non-compliance.

Further information is available in the following booklets:

1. Cross-Compliance Verifiable Standards Summary (Revised 1 January 2014)
2. Cross-Compliance Verifiable Standards (Full Version)

The documents, together with information on the calculation of Cross-Compliance penalties, are available at: www.dardni.gov.uk/Cross-Compliance. Printed copies of the documents are available, on request, from Orchard House or your local DARD office.

7 How to claim

You must enter the number of hectares that you want to claim for LFACA at Question 3. This should equal the total of Column I of your field data sheet.

If you are using breeding ewes, female deer and/or female goats to meet stocking density requirements, you also need to provide the total number of these animals on your holding at the date of application.

Eligible stock

You must mark an 'X' in the relevant boxes to show the type of stock you will keep during the 7 months qualifying period, that is from 1st April 2014 to 31st October 2014.

To check whether you have met the minimum stocking density requirement of 0.2 LU/ha , we will use:

- the eligible ewe numbers you submit at Section 2, Question 3.1 of the SAF 1;
- the cattle details held on the Animal and Public Health Information System (APHIS).
- your goat herd register, and
- documents relating to the breeding female farmed deer you keep.

You can also submit your Single Application online.

Completing your application online is:

- fast and efficient;
- secure;
- easy;
- likely to reduce mistakes in your claim;
- designed to highlight errors, which could potentially delay payments with a traditional paper claim; and
- a service which is available at any time of the day or night during the application period.

To submit your Single Application online you will need a Government Gateway ID and password. If you don't already have these, you should contact the Department's online services team on 0300 200 7843 or visit www.dardni.gov.uk/onlineservices

It is important that you apply for your Government Gateway ID and password well in advance of the closing date for the receipt of Single Applications on 15 May 2014. You will not be able to access the Department's online services, including the Single Application online facility, without them.

Once you have been given your ID and password, you will be able to access the full range of the Department's online services. This includes the facility to track the progress of your 2014 Single Application even if you didn't submit it online.

If you need help in completing your Single Application online, you should phone SFP Branch on 0300 200 7848.

You will receive an acknowledgement of your application whether it has been posted or sent online. Please keep this until you have received your payment. If there is a dispute about your application you will be asked to provide it.

8 Penalties

If you do not meet the scheme rules, or we find that you have provided incorrect information, we will apply penalties. Annex C of these notes gives details of penalties.

9 Leased land (including conacre/dual use claims)

You can claim LFACA for land you lease as long as the scheme's eligibility requirements are met.

A dual use claim is where one individual (typically the landowner) claims SFP in respect of a field on which a second individual (typically the conacre tenant) simultaneously claims LFACA.

We consider that, in conacre-like arrangements, a dual use claim is possible provided the applicants involved are each able to meet the respective scheme conditions. In order to demonstrate that they are meeting the scheme conditions, applicants should have a written conacre licence agreement. The RICS carry a model conacre licensing agreement on their website and we would recommend you use this agreement as it has been designed to capture all of the information we require to assess your claim without delay. The RICS model conacre agreement is available at www.rics.org

Where the land is let under a formal, multi-annual leasing arrangement, it is very unlikely that the landlord would retain sufficient control of the land to enable all the requirements of the SFP scheme to be met.

It is important that landowners and tenants agree who has the right to claim and that the applicant can meet all the conditions for a particular scheme.

10 *Force majeure* and exceptional circumstances

If there were specific circumstances that prevented you from making a claim for LFACA or meeting a scheme requirement, you may want your case to be considered under *Force Majeure/Exceptional Circumstances* provisions. You must request consideration of *Force Majeure/Exceptional* circumstances in writing and within 10 days of being in a position to do so.

European Commission guidance defines *Force Majeure/Exceptional Circumstances*, as “unusual circumstances, outside the control of the trader, the consequences of which, in spite of the exercise of all due care, could have not been avoided except at the cost of excessive sacrifice”.

The guidance highlights that there are two elements to be considered. The first is an objective element that requires us to determine if there was an exceptional circumstance outside your control. The second, a subjective element, requires us to consider if the effect of the exceptional circumstance could not have been avoided in spite of the exercise of all due care.

You will have to prove that *Force Majeure/Exceptional Circumstances* prevented you from meeting your obligations under the scheme, and that you did everything reasonably possible to overcome the circumstances. You must be able to provide information, supported by documents, of the steps you have taken to prevent or lessen the effect of these circumstances.

Examples of *force majeure* or exceptional circumstances include the following:

- The death of the farmer
- Long-term professional incapacity of the farmer
- A severe natural disaster affecting the agricultural land
- Accidental destruction of livestock buildings
- An epizootic disease affecting livestock (for example, foot-and-mouth disease)

Note: It is important that you tell us as quick as possible if you consider that you may be affected by *force majeure* circumstances. If you wait until the review stage to notify us of *force majeure* or exceptional circumstances, this will normally be considered to be outside the 10 working day notification period.

Annex A

Your stocking density calculation

The information below will help you work out the stocking density from your total LU's and eligible hectares.

As well as the example below, we have included a blank form to help you work out your stocking density.

LU values

The LU values used are:

Suckler Cow or heifer over 24 months	1.0 LU
Heifer over 8 months and up to and including 24 months	0.6 LU
Breeding ewe	0.15 LU
Breeding female goat	0.15 LU
Breeding female farmed deer 27 months and over	0.3 LU
Breeding female farmed deer over 6 months but less than 27 months	0.2 LU

Land used to support dairy production

Less favoured areas used to maintain dairy production are not eligible for a less favoured area compensatory allowance. We will work out the notional hectares used for dairying by converting the milk quota you held at 31 March 2014 to hectares at the rate of 10,000 litres = 1 hectare.

We will deduct the notional hectares from any lowland area first, followed by disadvantaged area, severely disadvantaged area and finally from any common land (CL). This maximises the payment due to you.

Stocking density - example calculation

Livestock on your holding at any time during the period from 1 April 2014 to 31 October 2014	Number	LUs
Suckler cows or heifers aged over 24 months (1 LU)	20	20 x 1 = 20 LU
Heifers aged between eight months and 24 months (0.6 LU)	10	10 x 0.6 = 6 LU
Eligible ewes (0.15 LU)	60	60 x 0.15 = 9 LU
Breeding female goats (0.15 LU)	0	0 x 0.15 = 0 LU
Breeding female deer aged over 27 months (0.3 LU)	0	0 x 0.3 = 0 LU
Breeding female deer aged over six months but under 27 months (0.2 LU)	0	0 x 0.2 = 0 LU
Total LUs		35 LU

Area of eligible land

Milk quota held on 31 March 2014: 120,000 litres

Number of notional hectares (ha): $120,000 \div 10,000 = 12$ ha

Eligible land	Area	Notional hectares used for dairying	Hectares remaining after deduction for dairying
Lowland	10 ha	10 ha	0 ha
Disadvantaged area	30 ha	2 ha	28 ha
Severely disadvantaged area	10 ha	0 ha	10 ha
Common Land	20 ha	0 ha	20 ha
Total eligible forage area			58 ha

Stocking density (total LUs ÷ total eligible forage area)

$35 \div 58 = 0.6$ LU per hectare

Stocking density - your worksheet

Livestock on your holding at any time during the period from 1 April 2014 to 31 October 2014	Number	LUs
Suckler cows or heifers aged over 24 months (1 LU)		
Heifers aged between eight months and 24 months (0.6 LU)		
Remember - Heifer total cannot be more than 40% of the total suckler cows and heifers		
Eligible ewes (0.15 LU)		
Breeding female goats (0.15 LU)		
Breeding female deer aged over 27 months (0.3 LU)		
Breeding female deer aged over six months but under 27 months (0.2 LU)		
Total LUs		

Eligible land	Area	Notional hectares used for dairying	Hectares remaining after deduction for dairying
Lowland	ha	ha	ha
Disadvantaged area	ha	ha	ha
Severely disadvantaged area	ha	ha	ha
Common Land	ha	ha	ha
Total eligible forage area			ha

Stocking density (total LUs / total eligible forage area)

_____ / _____ = LU per hectare

***Note:** If your stocking density is less than 0.2LU per hectare at any time during the period of 1 April 2014 to 31 October 2014 you will not receive any less favoured area compensatory allowance unless we have agreed that it need not apply (see stocking density, page 6).

Annex B

General information

Fraud

We will pay allowances only where eligibility can be confirmed beyond reasonable doubt. We do everything possible to identify fraudulent claims and we take action against those making fraudulent claims.

DARD Fraud Hotline Number: FREEPHONE 0808 100 2716

When will payments start to be made?

Payments will start in early 2015.

Will my farm be inspected?

By submitting a single application, you agree to permit the Department to carry out on-the-spot checks, with or without prior notice at any reasonable time. When notified of an on-farm inspection you should arrange to be present. It is not necessary for you to walk the fields with the inspector. However, you should arrange to be present at the end of the inspection to discuss the findings and sign off the inspection report. If you are unavailable, please nominate a representative in your place to sign the inspection report in your absence. No payment will be made if you, or others acting on your behalf, prevent an on-farm inspection being carried out.

We will make use of satellite and/or aerial photographs (ortho-imagery) to carry out on-the-spot checks or as part of our inspection process. This helps us to identify ineligible features such as buildings, laneways and other land that is not eligible to be claimed for LFACA. This also includes dense and scattered patches of scrub, whin, bogs and so on.

If you are not present at an inspection where irregularities are found we will send you a copy of the report.

We must inspect the farms of approximately 5% of beneficiaries. Approximately 1% of those are chosen randomly, in accordance with EU requirements. We choose the remaining 4% considering factors such as the length of time since their last inspection, results of previous inspections and changes in areas claimed for.

Approximately 1% of beneficiaries will also be selected for verification of the Cross-Compliance standards.

We may give you notice of an inspection as long as this does not jeopardise the purpose of the inspection. For land inspections, we can give notice of up to 14 days before the proposed inspection. For inspections involving livestock, we will not give more than 48 hours notice. If you, or anyone acting for you, prevent an inspection from being carried out, we will not pay you the allowance.

Inspectors cannot tell you how their findings will affect your claim. If penalties will be applied to your claim, we will let you know.

Will any penalties be applied?

There may be penalties. See Annex C.

Can I complain about the service I receive?

If you do not receive the quality of service you expect, tell us and we will fully and fairly investigate your complaint. You can do this in person or by letter, fax or phone.

You should first speak or write to the person who has been dealing with your application or with your local office manager. Give them as much information as possible and they will try to settle your complaint quickly. If you do not get a satisfactory answer, you will be given the name of a senior manager who you can contact if you want to continue with your complaint.

Will you pass details of my application to anyone else?

We can use the information in your application to support of any of our functions. We may also provide it to other departments or Agencies for the purposes of preventing or detecting crime.

If your application relates to any eligible land in Wales, Scotland or England, we will need to pass your information to the relevant authority in that country.

Data protection and freedom of information

We take care to make sure that we handle personal information in line with the requirements of the Data Protection Act 1998. This means that any personal information you supply will be processed mainly for the purpose for which it has been provided.

We may also use it for other legitimate purposes in line with the Data Protection Act 1998 and freedom of information law.

These include:

- Administration of the Common Agricultural Policy and other aid schemes;
- The production and safety of food;
- Management of land and other environmental controls;
- Animal health and welfare;
- Occupational health and welfare;
- Compilation of statistics.

We may pass your information to other organisations when necessary, as long as this is allowed by law.

In accordance with EU legislation, the Department must also publish the amount of subsidies paid to beneficiaries who are classed as a legal entity for all payments made from October 2009 and thereafter. This will include the business name, town and postcode prefix.

Can someone make the application on my behalf (nomination of authorised person)?

You can nominate another person to fill in the SAF and act on your behalf in relation to the processing of your claim so long as they have been properly authorised. There are four levels of authority and you should only **select one** of these options at Section 11 (b) on your SAF.

The levels of authority are:

1. Complete and submit the SAF on your behalf only; **or**
2. Complete, submit the SAF and allow the authorised person to discuss your claims with the Department; **or**
3. Complete, submit the SAF, discuss your claims and allow the authorised person to make changes where scheme rules permit, for example, change or withdraw information on your behalf; **or**
4. Complete, submit the SAF, view payment details on line, discuss your claims and allow the authorised person to make changes where scheme rules permit and view your payment details online.

When you nominate someone to act on your behalf, this authorisation will remain in place **until you tell us otherwise**. Therefore, **you will only need to complete this section this year if you want to nominate a different person or change the level of authority you gave the person you nominated previously**. In signing this section you are doing so on behalf of all the members of your business and indicating that all members agree.

We will consider any information provided by the person you authorise to have been provided by you and we may reduce your claim if we find the information is incorrect or the scheme rules have not been met.

The Department **will not** be liable for any direct or indirect loss or liability to you as a result of the authorised person acting on your behalf.

Annex C

Penalties

Under Article 16 of Commission Regulation (EC) No 65/2011, we can reduce the amount of land we pay allowances for. These reductions are called penalties.

Generally, for the purposes of the penalties, areas declared by a beneficiary which receive the same rate of aid shall be considered as forming one crop group. For LFACA, because of the two different rates of payment, severely disadvantaged land will be treated as forming one crop group and disadvantaged land and common land together will be treated as the other crop group.

There may be penalties for over-declaring the land on the holding (that is, if the area declared on your application is greater than the area actually found).

We will decide whether there has been an over-declaration within a particular type of land (severely disadvantaged land, or disadvantaged land and common land). If there is an over-declaration, the penalties are as follows:

Difference between declared area and actual area	Reduction
Up to 3% or two hectares	Area reduced without penalty.
More than 3% or two hectares, but not more than 20%	The area of the land will be reduced by twice the difference found.
More than 20%	No payment for the land concerned in the current scheme year.
More than 50%	No payment will be made in the scheme year, and an amount equal to that which corresponds to the difference between the area declared and the actual area will be taken off any allowances or other aid payments you claim in the following three years. If the amount cannot be fully recovered, the balance will be cancelled.

Some examples are shown over the page.

Example 1:

The farm business has over-declared disadvantaged land only by between 3% or two hectares, but not more than 20% of the area determined.

Type of land	Declared	Actual	Difference
Severely disadvantaged land	20 hectares	20 hectares	0 hectares 0%
Disadvantaged land and common land together	70 hectares	60 hectares	10 hectares 16.66%
Totals	90 hectares	80 hectares	10 hectares

The over-declaration is worked out as 16.66%. This is worked out by dividing the difference of 10 hectares by the 60 hectare actual area of disadvantaged land and common land.

Result

The area to be paid will be reduced by twice the difference (2 X 10 hectares = 20 hectares), which is subtracted from the 60 hectares claimed, leaving 40 hectares).

Example 2:

The farm business has over-declared severely disadvantaged land only by more than 20%.

Type of land	Declared	Actual	Difference
Severely disadvantaged land	50 hectares	40 hectares	10 hectares 25%
Disadvantaged land and common land together	40 hectares	40 hectares	0 hectares 0%
Totals	90 hectares	80 hectares	10 hectares

Result

There will be no payment for the severely disadvantaged area. The allowance will only be paid on 40 hectares of disadvantaged land and common land.

Intentional over-declaration

Where the over-declaration has been committed intentionally, the penalties are as follows for the combined area of severely disadvantaged land, disadvantaged land and common land.

Difference	Reduction
Intentional over-declaration of more than 0.5% or more than one hectare	No payment will be made in the current scheme year.
Intentional over-declaration of more than 20%	No payment will be made in the scheme year and an amount equal to that which corresponds to the difference between the area declared and the actual area will be taken off any allowances or other aid payments you claim in the following three years. If the amount cannot be fully recovered the balance will be cancelled.

Non-declaration of land

Penalties may apply if you fail to declare all the agricultural land on your holding.

On your SAF1 and SAF2 you must declare all the agricultural land you have on 15 May in the scheme year. This includes forestry and common land, even though you may not be using some of the land to support your claim.

If there is a difference between the total area you declare and the total agricultural land that you should have declared, your payment may be reduced as follows:

Difference	Reduction
Up to 3% or two hectares	No reduction
More than 3% and not more 20%	1% reduction
More than 20% and not more than 50%	2% reduction
More than 50%	3% reduction

Offset Recovery

Reduced payments resulting from the “more than 50%” over-declaration and the intentional over-declarations dealt with above, can be offset against aid payments under other support measures. These are listed under Council Regulation (EC) No 1698/2005 or Council Regulation (EC) No 73/2009. They include the Single Farm Payment and the Agri-environment schemes.

A e D

Contact us

If you need any help with your application, please contact us as shown below.

Phone: 0300 200 7848

Website: www.dardni.gov.uk/index/grants-and-funding

DARD Helpline: **0300 200 7852**

Email: **dardhelpline@dardni.gov.uk**

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