

Breaches and penalties

This is an old version of the page

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For recent changes to this guidance, please see the [bottom of the page](#) .

Table of Contents

[Capital Items – over-declaration of expenditure](#)

[Management Items – over-declaration of area](#)

[Cross Compliance](#)

[Capital and Management Items – breaches of agreement](#)

[Previous versions](#)

[Download guidance](#)

If you do not follow your contract terms and conditions we will call this a breach.

A breach may be identified through the automatic checking we carry out against your application, claim, land or allowances, through an inspection or following a check of any supporting documentation relating to a claim.

It is your responsibility to ensure that all contract conditions are fulfilled and that all information in your application and claim is accurate.

If you have breached your agreement, future grant payments will be reduced or withheld and sums previously paid will be recovered.

The scheme is subject to different provisions in the European Union regulations depending on whether your contract has management or capital items as described below.

Capital Items – over-declaration of expenditure

These items are covered by Article 63 of Commission Regulation (EU) No. 809/2014 and Article 35 of Commission Delegated Regulation (EU) No. 640/2014

Under Article 63, once we receive your capital claim we will establish:

- (a) the amount that you are due based on what you have claimed and
- (b) what you are due after an examination of the eligibility of the expenditure of your claim and supporting documentation

If what you have claimed exceeds what you are due after the examination of your claim by more than 10 per cent, an administrative penalty equal to the difference between the two amounts will be applied to the amount that you are eligible to be paid.

For example, if you have an item in your contract approved for £1,000 but you submit a claim and invoices for £1,200, your eligible costs will be £1,000 with a penalty of £200 which means that you will receive a payment of £800.

The maximum reduction we can impose is 100 per cent of the claim. For an explanation of Article 35, see the section headed Capital and Management Items.

[Back to top](#)

Management Items – over-declaration of area

These items are covered by Articles 16, 19 and 35 of Commission Delegated Regulation (EU) No. 640/2014

The management items in your contract are claimed as part of the Single Application Form and must comply with the rules of the Single Application Form.

In accordance with Article 16, if you fail to declare all the land you have on your Single Application Form and there is a difference between the total areas declared and the total land that you should have declared, your payment will be reduced as below:

Difference between land that is declared and what is found	Size of penalty
Up to 3% of the area determined	No penalty
More than 3% and up to 20%	1%
More than 20% and up to 50%	2%
More than 50%	3%

In accordance with Article 19, over-declarations are calculated at crop-group level. A crop-group is formed of all areas which receive the same rate of aid under the same measure. If, within a crop-group, we find a difference between the area declared and the area found, your payment will be adjusted as below:

Size of over claim	Size of penalty
Up to 2 hectares or 3%	No penalty – payment will be reduced to area determined
More than 2 hectares or 3% but not more than 20% of the area determined	Twice the difference of the over claim
More than 20% but not more than 50% of the area determined	No payment will be made on the crop group
More than 50% of the area determined	No payment will be made on the crop-group and a further penalty will be added based on the difference between area declared and area found

[Back to top](#)

Cross Compliance

Any breach of cross-compliance rules anywhere on your holding may result in a penalty being applied. In most cases, this penalty will be applied to all area-based payments being claimed.

You can find out more about Cross Compliance using the link below.

[Cross Compliance](#)

Capital and Management Items – breaches of agreement

In accordance with Article 35, we will refuse or withdraw in full or in part any support, both for capital and management items, in cases of non-compliance or where the eligibility criteria or the conditions and obligations of your contract have not been met. This includes your commitment to complete a management diary.

If we assess that there has been a serious non-compliance, the support will be refused or withdrawn in full. You will also be excluded from the same measure or type of operation for the calendar year of the finding and for the following calendar year.

For commitments extending over a number of years, breach actions will result in a reduction and/or recovery being applied to amounts paid in previous years as well as the current year.

In determining the level of reduction we will consider how the breach should be classified against the following factors:

Classification	
Severity	The severity will depend on the importance of the consequences of the breach taking into account the objectives of the agreement or option

Extent	The extent will depend on the effect that the non-compliance has on the agreement as a whole and reflects the amount of agreement breached
Duration	The duration shall depend on the length of time the effects of the breach lasts and whether it is possible to rectify the breach by reasonable means
Re-occurrence	A breach will be determined as a re-occurrence where similar non-compliances have been found during the last four scheme years

The maximum reduction in any one year is 100 per cent of the option payment. Please see the below matrix to see how non-compliance will be treated.



[Breaches matrix \(PDF, Size: 88.6 kB\)](#)

doc_external_url: <https://www.ruralpayments.org/media/resources/AECS-Breaches-Matrix---Feb-2016.pdf>
A matrix displaying how breaches will be treated



[AECS Management Diary non-compliance matrix \(PDF, Size: 165.9 kB\)](#)

doc_external_url: <https://www.ruralpayments.org/media/resources/AECS-Updates---AECS-Management-Diary-Non-Compliance-Matrix---16-January-2017.pdf> Matrix displaying penalties for non-compliance

If we seek to recover payments from you, we will write to you explaining why, with the amount due which will also include interest. Interest will begin to accrue from 60 days from the date of our letter and will continue to accrue until the time of repayment.

The letter will also give advice on how to appeal our decision. You will have 60 days from the date of this decision letter to either repay or to seek a review of the decision. If you do neither by the 60 day deadline, we will offset your debt from future payments from any SRDP scheme within three calendar years following the calendar year of the finding of the scheme breach.

More information on appeals can be found in the following appeals section.

[Appeals](#)

We may accept that you may have been prevented from meeting certain obligations of your contract due to a force majeure event. Force majeure relates to exceptional circumstances. Examples of a force majeure event are:

- the death of the scheme beneficiary
- the long term incapacity of the beneficiary
- a severe natural disaster gravely affecting the holding
- the accidental destruction of buildings such as slurry stores
- an epizootic or a plant disease affecting part or all of the beneficiary's livestock or crops respectively

To seek an exception to any withdrawal of support or financial penalty on the grounds of force majeure, you must write to your area office within 10 working days of the event happening. You should send us as much evidence as you can to support your case, including proof that the event occurred. Each case will be considered on its merits.

[Back to top](#)

Section	Change
Capital and Management Items – breaches of agreement	Sentence added relating to management diary and non-compliance matrix document added.

[Previous versions](#)

[Previous versions of this page](#)

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