

Contract variations

This is an old version of the page

Date published: 12 February, 2016

Date superseded: 26 January, 2017

Variations to Agri-Environment Climate Scheme contracts fall into two categories.

These are:

- variations initiated by beneficiaries
- variations initiated by scheme delivery partners – Rural Payments and Inspections Division and Scottish Natural Heritage

Variations initiated by beneficiaries

If, once your Agri-Environment Climate Scheme contract has been issued, you find you are unable either to keep to the expected timetable of capital works, and / or to manage a particular area as planned in your original application, an adjustment may be considered to allow changes to the schedule of works included within your contract.

Changes may also occur:

- between approval and contract signing (pre-signing adjustment), or
- after you have signed and returned your contract (contract variation)

Changes must adhere to the following general principles:

- if the adjustment to the timing of works proposed changes the claim year, or the particular areas to be managed, there must be an exceptional circumstance or something unforeseen that has caused the delay or change. This is particularly important given the limited budget available for the programme period and because, unfortunately, we cannot transfer unspent funds from one financial year to another
- the proposed change must not affect the delivery of the contract
- the effect of the change must not bring an application score below the approved scoring threshold. Any variation request that takes the application score below the approved scoring threshold will be subject to scrutiny to assess if the work initially proposed was simply to attain a higher score. A request to remove that work after approval may be considered as a circumvention to attain approval and will likely result in the contract being withdrawn
- if a contract is changed after a land inspection or claim adjustment there should be no overall increase in the total area for an option, or length / area / quantity for a capital item approved in the original contract. We may consider it acceptable to 'balance' different areas of management of the same option where some are found to be larger than expected and others found to be smaller than expected

Variations must be submitted in writing by letter or email, and once considered can be:

- approved in full
- approved in part
- rejected

Types of acceptable variations

It is expected only the following types of variation will be considered:

- changes to timing of work / claims due to exceptional weather conditions that prevent the project from proceeding as planned or other circumstances outwith the control of the applicant – depending on consideration of the full circumstances
- force majeure (as defined by Article 2(2) of EC Regulation 1306/2013)
- claims for less than the amount approved in the contract, for example, fencing or other standard capital items not required to achieve the desired outcome
- correction of Land Parcel Identifiers (LPIDs)

- correcting typographic or arithmetic errors
- transposition errors. For example, mixing a '3' for an '8' or '5'
- application details affected by delays in issuing the contract
- application details affected by changes to scheme guidance after the application was formally submitted
- where a standard cost capital item has been deferred due to exceptional circumstances the associated first year's management must be deferred
- you may request to move areas of management if there are sound environmental reasons. This is especially true if the type of management undertaken can produce the same benefits on different areas of land. This is allowed in the context that many options specifically allow the rotation of options. You will need to clearly demonstrate why you require to deviate from the original application. Each request will be considered on its merits

When variations are not allowed

- variations to contracts are not allowed if they reduce the ability to deliver the selected national targets or if they stem from mismanagement. For example, requests to remove or substantially reduce options entered into the application in order to secure ranking points
- requests made following notification of an inspection
- requests to swap the value of unused items for others not included in the initial application. For example, swapping a fence gate for a stile
- requests to include new options or capital items. These should be included in a separate application
- requests to move or defer agri-environment areas not managed due to errors that were caused by you when completing the application process. If you have not managed an area because of an omission or error on your part (for example, sown in an inappropriate crop), this cannot be varied.

Notification of decision / beneficiary's liability

Once your variation request has been considered you will be notified whether your request has been successful in full or in part or if it has been rejected.

If a variation is accepted and is the result of pre-signing contract adjustment, you will receive two copies of the revised contract, including adjusted schedule of works, maps and additional conditions (where applicable). You will also receive a revised management diary if the changes applied affect the details in the diary.

If a variation is accepted and is the result of post-contract signing variation, you will receive two copies of the adjusted schedule of works, maps and additional conditions (if any of the maps and / or additional conditions have changed following the variation) and two copies of the signing pages. You must return one complete signed set of documents to your local office, confirming you are content with the details in the varied contract.

If you reject the variation then the originally approved contract still stands. If you do not comply with the original or amended contract, you risk being found in breach of contract. This may result in recovery action with penalties being applied and / or your contract being withdrawn.

Variations initiated by scheme delivery partners – Rural Payments and Inspections Division and Scottish Natural Heritage

The Rural Payments and Inspections Division and Scottish Natural Heritage have the legislative authority to vary a contract at any time, including any additional conditions, whether or not at the request of the beneficiary.

For example, a variation may be carried out by a member of staff processing the application where errors are found, e.g. wrong Land Parcel Identifiers (LPIDs) in the original schedule of works. It may also be required following the inspection or processing of claims.

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