

Transfer of entitlements

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About this guidance

This guidance provides further information about the transfer of Basic Payment Scheme payment entitlements through sale, lease or inheritance.

You must read this guidance carefully before you complete a [PF23 – Application to transfer entitlements form](#).

RPID also has a specialist unit to help with queries about the transfer notification process. If you need further more information after reading this guidance, please contact:

Rural Payments and Inspections Division
Entitlement Transfer Unit (ETU)
10 Keith Street
Stornoway
HS1 2QG

Telephone: 01851 702392

Fax: 01851 705793

Email: EntitlementTransferUnit@gov.scot

Please note, this guidance does **not** cover the transfer of entitlements for:

- business splits
- business mergers
- whole holding transfers

There is specific guidance and requirements to be considered before these types of transfer can be authorised.

Contact your local RPID area office for this information.

Background

Scottish entitlements are only tradable within Scotland: the EU Regulations governing the Basic Payment Scheme allow farmers and crofters who have established their entitlements to transfer these to others, but those receiving entitlements must be farmers within the same region.

To establish their entitlements, farmers had to submit a 2015 Single Application Form, and, where required, complete an allocation of entitlements application form, fulfilling various conditions, after which they were free to transfer, subject to other rules surrounding transfers in general.

Part 1 – Are you eligible to transfer your entitlements?

1.1 If you own Basic Payment Scheme entitlements you may be eligible to transfer them. This includes entitlements allocated to you in 2015, and those you have since been allocated, have purchased or have inherited.

1.2 You can transfer your entitlements with or without land, subject to the conditions laid down in [Part 2](#). You can sell your entitlements, or lease them for a specific period, after which at the end of the lease we will return them to you.

1.3 The person or business that will take over your entitlements must meet the definition of a 'farmer' as determined by the European Regulations **at the time of transfer**. That is a natural or legal person (or a group of natural or legal persons) whose holding (production units) is situated within Scotland, and who exercises an agricultural activity.

An agricultural activity means:

- the production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes
- maintaining an agricultural area in a state which makes it suitable for grazing or cultivation

or

- carrying out a minimum activity on agricultural areas naturally kept in a state suitable for grazing or cultivation. In Scotland, this is all land assigned to Payment Regions 2 and / or 3

Refer to the full [Basic Payment Scheme guidance](#) for more information on agricultural activity.

Please note: If the buyer or lessee does not meet this definition the request to transfer will be rejected.

1.4 A key part of the 'farmer' definition is the requirement to have an agricultural holding (production units). The minimum size of a holding is 0.3 hectares. However, to receive payment under the Basic Payment Scheme, an applicant must declare a minimum of three hectares of eligible land. Please note that we may ask for evidence to prove that the transferee is indeed a 'farmer' at the time of transfer.

1.5 Payment entitlements may only be transferred within the same Basic Payment Scheme payment region, except in case of inheritance. This means that if you are transferring payment entitlements without land, you can only transfer them to a business who holds land in the payment region to which the entitlements are assigned. Payment entitlements can only be activated for payment by land assigned to the same payment region as them. For example, you cannot activate Payment Region 1 entitlements using Basic Payment Scheme eligible land assigned to Payment Region 2.

1.6 We calculate payment entitlements to two decimal places. This means you can transfer fractions of entitlements that are no smaller than 0.01 hectares.

Part 2 – The types of transfer

2.1 The European Regulations allow entitlements to be sold or leased; entitlements can also be transferred to another farmer as a gift, or through inheritance. All these types of transfer can be done with or without land.

2.2 If you wish to **trade** you can do so through a private arrangement with another farmer or between your representatives (solicitors or advisory firm). Alternatively, you can buy or sell publicly through brokers and auction marts.

2.3 If you **lease with land**, the start and end dates of the lease must be the same for the entitlements and land.

2.4 To apply under **inheritance** the executor should complete a [PF23 – Application to transfer entitlements form](#). Supporting documents must be provided with the application (for example, a copy of a will or any relevant legal documentation).

2.5 If you **transfer entitlements with land** you must do so with an equivalent number of eligible hectares and the land you transfer must be eligible to support a claim under the Basic Payment Scheme.

2.6 An **assignment** between an outgoing tenant (assignor) and incoming tenant (assignee), with the landlords consent, will be considered as a transfer with land. The documentation supporting any transfer of this type should clearly state that the transfer is assignment.

2.7 If you **transfer entitlements without land**, we will apply a siphon and will reduce the value of the entitlements transferred.

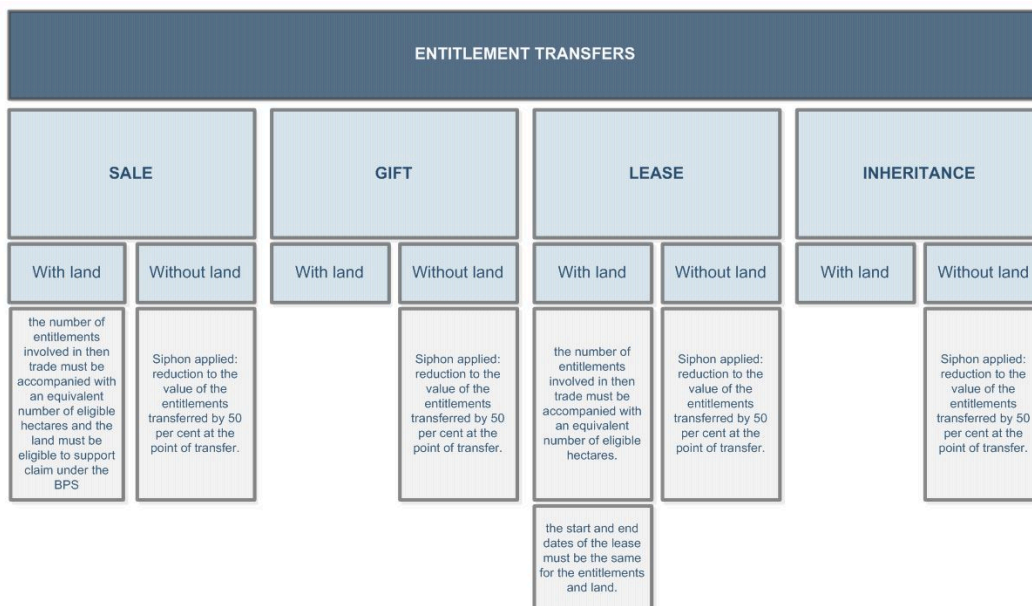
The European Regulations governing the implementation of the Basic Payment Scheme contain a provision to apply a siphon on all entitlements traded without land. Scottish Ministers, through a public consultation, asked for views on the use of this option, the result of which now leads to a reduction to the value of the entitlements transferred by 50 per cent at the point of transfer.

Convergence will apply to the post siphon value to ensure all payment entitlements within a region are the same value in 2019.

Please bear in mind that we cannot get involved in any disputes between parties because of siphon reduction when your sales agreement is finalised.

2.8 Note that although the value deducted will be lost to the transferee, it will go to the National Reserve and help provide additional funds for other farmers.

2.9 If the tenant owns the payment entitlements and transfers them to the landlord at the end of a seasonal let or tenancy agreement, the transfer will be considered a transfer without land and the entitlements will be subject to siphon.



Part 3 – When can I transfer my entitlements?

3.1 You can transfer your entitlements at any time but you must tell us about all transfers within the ‘notification period’. This begins on 16 May of the calendar year preceding the first year the transferee

could include the entitlements in a claim for the Basic Payment Scheme, and it ends on 2 April in the first calendar year the transferee could include the entitlements in such a claim.

3.2 Help us process your application by giving us as much advance notice as you can. To allow us time to carry out administrative checks against your application, such as a validation check against our field register, please send a [PF23 – Application to transfer entitlements form](#) to the Entitlement Transfer Unit **at least six weeks before the effective date of transfer**.

Be aware that we may not be able to finalise our checks within six weeks if you are transferring entitlements that could potentially be subject to confiscation because of non-usage. If your application falls under this category we will write to let you know.

3.3 Note that if you intend to transfer your entitlements in time for the Basic Payment Scheme you must complete a [PF23 – Application to transfer entitlements form](#) and send it to the Entitlement Transfer Unit by 2 April [*].

This is because there is a 'notification period' set in Regulation which begins on 16 May of the calendar year preceding the first year the transferee could include the entitlements in the claim for the Basic Payment Scheme and ends on 2 April in the first calendar year the transferee could include the entitlements in such a claim.

[*] When 2 April is a Saturday, Sunday, bank holiday or other public holiday, the date falls to the next working day. As 2 April, 2016 falls on a Saturday, the date for the 2016 was changed to 4 April.

Part 4 – The application process

4.1 Please send a [PF23 – Application to transfer entitlements form](#) to the Entitlement Transfer Unit.

4.2 You must provide confirmation of the number of entitlements being transferred and whether the transfer is with or without land together with the following information for each of the categories below:

Sale or other (for example, a gift). A written agreement clearly showing the details of the land and / or entitlements being transferred. If the transfer is with land, confirmation of the date of entry is required and the land must transfer on the same day as the entitlements. This agreement must be signed by both parties. An example of an agreement for a transfer without land is available at [Appendix A](#).

Lease. A written agreement, signed by both parties, clearly showing the following:

- land (LPIDs and areas of eligible Basic Payment Scheme land (if leasing with land))
- number of entitlements being leased (start and end date of the lease – if leasing with land this must be the same date for both entitlements and land (and it should match the application details))

Inheritance (confirmation of your executor status, together with a copy of the will).

ENTITLEMENT TRANSFERS							
SALE		GIFT		LEASE		INHERITANCE	
Form PF23		Form PF23		Form PF23		Form PF23	
With land	Without land	With land	Without land	With land	Without land	With land	Without land
Supporting documentation to be provided:							
A written agreement clearly showing the details of the land and/or entitlements being transferred. This agreement must be signed by both parties.		A written agreement clearly showing the details of the land and/or entitlements being transferred. This agreement must be signed by both parties.		A written agreement, signed by both parties, clearly showing the following: land (LPIDs and areas of eligible BPS land number of entitlements being leased (start and end date of the lease – if leasing with land this must be the same date for both entitlements and land (and it should match the application details)		A written agreement, signed by both parties clearly showing the number of entitlements being leased (start and end date of the lease – if leasing with land this must be the same date for both entitlements and land (and it should match the application details)	
If the transfer is with land, confirmation of the date of entry is required and the land must transfer on the same day as the entitlements.		If the transfer is with land, confirmation of the date of entry is required and the land must transfer on the same day as the entitlements.				Confirmation of your executor status, together with a copy of the will	

4.3 You can make **multiple transfers** (for example, some entitlements with land and some entitlements without land) using the same form, as long you are transferring these to the same business. Otherwise you must use a separate form for each transfer.

Part 5 – Who will receive the payments?

5.1 We will pay on entitlements held as at 15 May. So, the effective date of transfer will determine who gets paid in any given year. For example, if you wish the transferee to receive payment, you must inform us on or before 2 April [*]. If it takes place after 2 April, any payment that is due will go to you if you have submitted a valid Single Application Form.

5.2 Note that if for any reason we have to reject your application, and you have submitted it near to 2 April (as explained above), you will not be able to submit another application in time to allow the transferee to claim for the entitlements in that year. In this scenario you will be the one responsible for the use of these entitlements in that year.

5.3 Both parties should also be aware that if after finalising a transfer we discover that the seller / lessor should not have been awarded the entitlements, we must take back the appropriate entitlements and ask both parties to repay, with interest, any monies not due to them.

5.4 Recipients of traded entitlements are still subject to scheme conditions and eligibility criteria for payment. In order to receive payment under the Basic Payment Scheme, all farmers and crofters must have eligible land at their disposal, and be engaged in a recognised agricultural activity.

Part 6 – Legal base

6.1 The trading of entitlements is permitted under Article 34 of Regulation (EU) No 1307/2013, Article 25 of Commission Delegated Regulation (EU) No 639/2014 and Commission Implementing Regulation (EU) No 641/2014.

Appendix A – Example of a sale or lease agreement



[Transfer agreement \(PDF, Size: 55.0 kB\)](#)

doc_external_url: <https://www.ruralpayments.org/media/resources/Example-of-a-sale-or-other-means-of-agreement.pdf> Example of a sale or other means of agreement (only relevant for transfers without land)

Recent changes

Section	Change
This guidance has been redrafted. Key changes are highlighted below.	
Background	New section added.
Part 2 – The types of transfer	Guidance redrafted. Information added on convergence. Explanatory graphic added.
Part 3 – When can I transfer my entitlements?	Clarification of the 2 April closing date.
Part 4 – The application process	Explanatory graphic added.
Part 5 – Who will receive the payments?	Paragraph 5.4 added.

Previous versions

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