

Single Payment Scheme (SPS) Allocation of new entitlements for 2010 Information Note 2 (Permanent fruit and vegetables, nursery crops and vines)

We published *Information Note 1* on our website in August 2008, this *Information Note 2* replaces that document.

This note is for:

- Existing SPS claimants who have land used for the crops listed below. These crops are now becoming eligible under SPS.
- Farmers who have not claimed SPS before, but have land used for the crops listed below. These crops are now becoming eligible under SPS.

In both cases, claimants may be eligible for new entitlements, depending on the eligibility requirements set out in sections 2 and 3.

If you intend to apply for the new entitlements you should contact us as soon as possible, before **31 December 2008**, even if you previously expressed an initial interest (see section 7). This will allow us to ask you for some extra information so we can send you the appropriate forms.

1 Introduction

The rules of SPS have recently been changed. This means that farmers (growers) who have land used for the crops listed below in the 2008 reference period, may be eligible to apply in 2009 for new SPS payment entitlements (details in section 2). These new entitlements can then be used to claim payment for the first time in the 2010 scheme year.

The extra land eligible for new entitlements is:

- land under permanent fruit and vegetables (including commercial orchards);
- nursery crops; and
- vines.

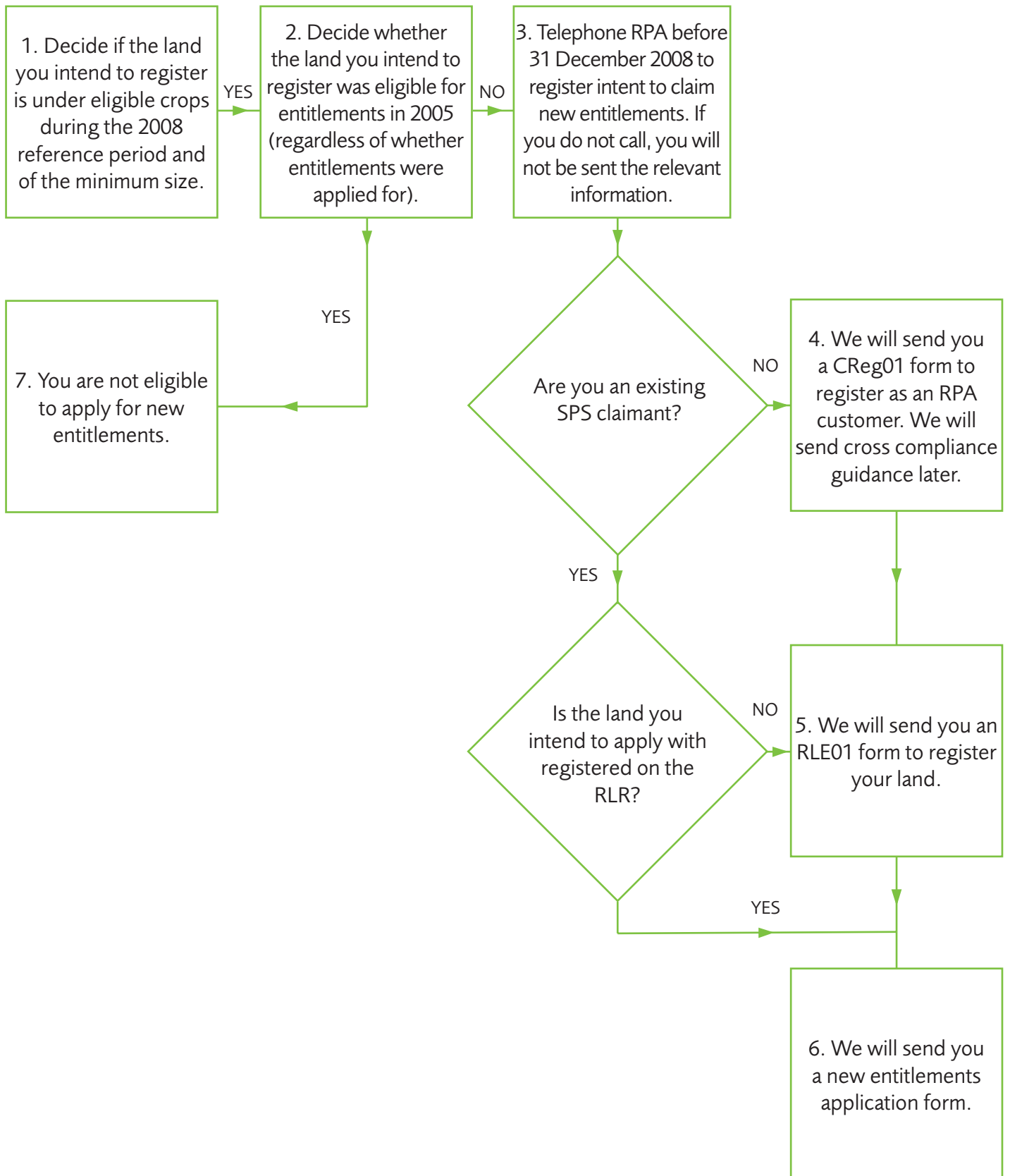
Additionally, farmers with land under these crops can now claim for payment in 2009 against existing SPS entitlements for the 2009 scheme year (see section 13).

This Information Note gives further details about:

- the eligibility requirements for farmers who wish to apply for new entitlements;
- eligible land;
- how we will calculate the number of entitlements (including hardship and national reserve provisions);
- cross compliance requirements;
- the process to apply for new entitlements; and
- the timetable for this process.

Diagram to explain the application process.

The diagram below shows the main steps you should follow if you wish to apply for new entitlements. We have given further details throughout this information note.



2 Who can apply for these new entitlements? (Eligibility requirements)

To apply for (establish) entitlements and claim for payment under SPS, you must be a farmer (grower) as defined by the EU regulations. For the purpose of SPS a farmer is defined as a natural or legal person, or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, whose holding is situated within the EU and who exercises an agricultural activity. This includes legally constituted bodies such as a partnership, company or trust.

Three further requirements also apply in order for you to be able to establish new entitlements:

- a) Eligible crops must have been present on your land parcels during the 2008 reference period. The reference period varies depending on the type of crop grown. The crop does not need to have been present for the entire reference period, just on at least one day during the period. See section 4 for situations where two or more claims are made by different farmers on the same land. We have listed the eligible crops and the reference periods below:

Reference Period

The eligible crops need to be present on the land parcels on at least one day during the following reference periods:

Land under permanent fruit and vegetables (including commercial orchards) and nursery crops;
1 January – 30 September 2008

Land under vines;
1 January – 31 July 2008

List of Eligible Crops

- **Permanent fruit and vegetables** – reference period is 1 January – 30 September 2008.

The following crops meet the eligibility requirements: (Not all of these are commercially grown in the UK)

- apples, pears, apricots, peaches (including nectarines), cherries, plums, sloes and quinces;
- citrus fruit, plantains, figs, pineapples, avocados, guavas, mangoes, mangosteens, papayas and locust beans;
- mint, melissa and rosemary; and
- nuts - almonds, hazelnuts, walnuts, chestnuts, pistachios, pine nuts, macadamia nuts, pecans, other nuts (not areca or cola nuts).

If you have other crops which you think may be eligible let us know, and we will consider them against the definitions in the EU regulations.

- **Nursery crops** – reference period is 1 January – 30 September 2008.

These are defined as areas of young woody plants grown in the open air, on soil in greenhouses or under polytunnels for subsequent transplantation:

- vine and root-stock nurseries;
- fruit tree nurseries;
- ornamental nurseries;
- nurseries of forest trees (excluding those for the holding's own requirements grown within woodland); commercial forest-tree nurseries, whether in woodland or outside, are included in the definition, as are non commercial forest-tree nurseries for the holding's own requirements grown outside woodland. Christmas trees will not usually be eligible as they are not grown for subsequent transplantation; and
- trees and bushes for planting in gardens, parks, at the roadside and on embankments, for example, hedgerow plants, rose trees and other ornamental bushes, ornamental conifers, including in all cases their stocks and young seedlings.

For information on plants in containers see section 3. Any nursery crops not meeting the above definitions are not eligible for the establishment of new entitlements.

- **Vines** – reference period is 1 January – 31 July 2008.

This includes productive vines and not yet productive vines planted out in the field. Vines grown on soil under polytunnels are also eligible.

- b) The land parcels must not have been eligible to establish entitlements in 2005. Land which was eligible to establish entitlements in 2005 was any agricultural area of the holding, taken up by arable land and permanent pasture, except areas under permanent crops, forests or used for non-agricultural activities. If the land was eligible, but the farmer chose not to establish entitlements with respect to this land in 2005, that land cannot now be used to apply for new entitlements. For more details see section 3.
- c) The land parcels and your holding must be of a certain minimum size to be eligible.
- The minimum holding size on which you can currently establish entitlements or claim SPS is 0.3ha.
 - The minimum individual land parcel is 0.1ha.

It is possible that the minimum claim size may change as a result of proposed changes to the EU regulations; we will issue details of any changes as soon as they are confirmed. We will not make a payment to anyone who artificially creates conditions required to obtain payment under the scheme, for example by splitting or merging businesses.

3 Land Eligibility

New entitlements cannot be established for land, which was eligible to establish entitlements in 2005. This applies whether or not you, or the farmer who held the land at that time, actually chose to establish entitlements on this land.

For example, if a land parcel was used as a commercial apple orchard on 15 May 2005 (which would make it ineligible to establish entitlements at that time), and still was an orchard during the 2008 reference period, then it would be eligible to be used to establish new entitlements. If the land parcel was used as permanent pasture on 15 May 2005 (which made it eligible to establish entitlements at that time), it cannot be used to establish new entitlements now even if it was used as a commercial apple orchard during the 2008 reference period. This applies whether or not the land was actually used to establish entitlements in 2005.

The same principle applies to part parcels. For example, if one half of a land parcel was a commercial apple orchard on 15 May 2005 and also during the 2008 reference period, but the other half of the parcel was permanent pasture on 15 May 2005 and/or during the 2008 reference period, new entitlements can only be allocated for the first part parcel.

Example

A farmer has 5 fields (A-E) as shown below. The eligibility for the new entitlements is dependent on:

- the land use being ineligible in 2005; and
- the land use being eligible in 2008.

Field A 2005 - Commercial orchard 2008 - Grass	Field D 2005 - Grass 2008 - Grass		Land not eligible for new entitlements
Field B 2005 - Grass 2008 - Commercial orchard	Field E 2005 - Commercial orchard 2008 - Commercial orchard		Land eligible for new entitlements
Field C 2005 - Quarry 2008 - Vineyard			

Field	2005 crop	2005 eligibility Yes/No	2008 crop	2008 eligibility Yes/No	Eligible for new entitlements Yes/No
A	Commercial orchard	N	Grass	N	N
B	Grass	Y	Commercial orchard	Y	N
C	Quarry	N	Vineyard	Y	Y
D	Grass	Y	Grass	N	N
E	Commercial orchard	N	Commercial orchard	Y	Y

Orchards managed using low intensity methods were eligible in 2005, this means you cannot now use this land to apply for new entitlements. For the purpose of this Information Note, the term 'commercial orchard' excludes such low intensity orchards. Further details about what land was eligible in 2005 is given in paragraphs C13-C36 and C43-C66 of section C of the *Single Payment Scheme Handbook and Guidance for England 2008* (available on our website www.rpa.gov.uk or by telephoning our Customer Service Centre on 0845 603 7777).

Grass margins/strips:

Where during the 2008 reference period a land parcel contained a newly eligible crop, such as a commercial apple orchard, with grass margins around it, new entitlements can be allocated for the whole parcel provided the width of the grass margin is in line with normal husbandry (and provided there are no other ineligible features in the land parcel).

Similarly, if a land parcel during the 2008 reference period was fully used for greenhouses growing newly eligible crops over soil, and in between the greenhouses was grass, then new entitlements could be established for the whole land parcel. Where, for example, only half of the land parcel was used for the greenhouses, the area of the greenhouses and grass strips between them can be used to establish entitlements but the remaining half of the land parcel cannot.

In all cases the grass margins/strips can only be included in the area to be used to establish new entitlements where the grass was not used to establish entitlements in 2005, and where it is managed in line with cross compliance conditions.

Strips of land entered in the Countryside Stewardship Scheme (CSS) and Entry Level Scheme (ELS) will be considered eligible provided the width of the strip is in line with normal husbandry for the crop grown.

Where a parcel which was used for eligible crops during the 2008 reference period includes an uncropped area of land, such as the corner of a field, which was too small to be used to establish entitlements in 2005, this area cannot be included in the area for establishing new entitlements, unless it is part of a margin which is in line with normal husbandry for the crop grown.

Deductions for non eligible crops:

Where a land parcel was being used to grow a mixture of eligible and non eligible crops (for example in a greenhouse) during the 2008 reference period then the area of non eligible crops must be deducted.

Areas of non agricultural features:

Certain features of a land parcel cannot be included in the area used to establish new entitlements.

This ineligible category includes:

- Areas of non-agricultural use, such as car parking (even if the car parking is used for an agricultural activity, such as a Pick Your Own orchard).
- Buildings, sheds, hard standing, permanent ponds, fenced-off pylons, metalled or surfaced paths/tracks/bridleways, and remnants of old field boundaries (for example, hedges and ditches) if they cannot reasonably be used for grazing.
- Areas taken up by dwellings where the primary purpose is non-agricultural, for example, pens for game rearing, (unless the pen is in place for no more than 28 days). Areas taken up by dwellings where the primary purpose is agricultural, for example, duck housing, do not need to be deducted provided that the cross compliance conditions can be maintained on that area.
- Plants grown in pots, containers or beds are only eligible where the land on which they are positioned is eligible agricultural land, for example, soil, matting on top of soil, sand beds on soil. Where they are situated on concrete or other hard standing (or on tables above such surfaces) then they are not considered eligible.
- Areas taken up by manure, unless the manure is to be spread on the field in which it is stored and will be spread according to the annual cultivation cycle. Therefore, areas taken up by larger amounts of manure, or which are stored beyond the normal time for spreading, are not eligible.

- Areas taken up by bales of straw, silage or hay, unless they are stored in the field in which they were harvested or in the field in which they will be used. If these conditions are not met, they are not eligible;
- Some areas of woodland.
- Bracken & scrub cover. (These are sometimes eligible – for more details see the *Single Payment Scheme Handbook and Guidance for England 2008* paragraphs C63 – C66.

4 Dual claims (where two or more people apply to establish entitlements on the same area of land)

Only one SPS entitlement can be established for a particular area of land. If more than one farmer occupied the land during the reference period and applied for the new entitlements, the farmer who had the land at his disposal at the latest point in the reference period would be the one who is eligible for the new entitlements. No entitlement will be established for an area of land on which a dual claim has been made until the dispute has been resolved. It is possible for two or more farmers to apply to establish entitlements in separate parts of the same land parcel, provided that the total area for which entitlements are established is not greater than the total newly eligible area of the land parcel.

5 Hardship and National Reserve

We will normally calculate your entitlements based on the eligible area you have in the reference period. However, you may receive an increased allocation of entitlements under certain conditions if this standard method of calculating the number of entitlements provides an allocation that does not properly reflect your current business.

For more details see Annex 1.

6 Cross compliance

Cross compliance requirements apply to you if you receive direct payments (such as SPS) under Common Agricultural Policy (CAP) support schemes, or if you receive payments under certain Rural Development schemes. Your payments may be reduced if you do not comply with these requirements.

There are three types of cross compliance requirements:

- Specific European legal requirements, known as Statutory Management Requirements (SMRs).
- Domestic legal requirements requiring you to keep your land in Good Agricultural and Environmental Condition (GAEC).
- A requirement to maintain a level of permanent pasture not included in the crop rotation for five years or more. (This is not a requirement for individual farmers, but may be in future years.)

All agricultural activities are covered by cross compliance and you must comply with the requirements across the whole agricultural area of your holding, regardless of the amount of land you claim under SPS. This includes common land over which you exercise or hold rights of common, including rights in gross.

For further information, please see the cross compliance publication *The Guide to Cross Compliance in England* which will be sent to you if you are a new RPA customer once you register your interest in the new entitlements. It is also available on our website at (www.rpa.gov.uk/crosscompliance).

Technical advice and guidance on the cross compliance requirements can be found at:

www.crosscompliance.org.uk or by calling the cross compliance advice line on 0845 345 1302.

7 How do you apply for new entitlements?

What you need to do will depend on whether or not you are already registered with us for SPS, as outlined below:

	New SPS Customer (even if you are already registered with RPA for any other reason)	Existing SPS Customer
1. Register Interest Telephone us before 31 December 2008	<p>Call us on 0845 603 7777 to register your interest in new entitlements. We advise you to do this as soon as possible and by the end of the year at the latest. If you have already called us to register your interest following the publication of <i>Information Note 1</i> (in August 2008) you must contact us again to confirm you intend to apply for new entitlements as we need to ask you some more questions.</p>	<p>Call us on 0845 603 7777 to register your interest in new entitlements. We advise you to do this as soon as possible and by the end of the year at the latest. If you have already called us to register your interest following the publication of <i>Information Note 1</i> (in August 2008) you must contact us again to confirm you intend to apply for new entitlements as we need to ask you some more questions.</p>
2. Customer Registration Return date: Return form to RPA by 15 January 2009	<p>You will need to complete a <i>Registration Form</i> (CReg01) to obtain a Single Business Identifier (SBI) and a County Parish Holding (CPH) number if you do not already have one.</p> <p>Form available from: 1 October 2008</p> <p>Form will be sent to farmers when they register their interest with us.</p>	<p>No <i>Registration Form</i> (CReg01) required unless you do not have a CPH holding number for the eligible land.</p> <p>If you need a CPH number you should request a CReg01 form when you call to register your interest in new entitlements.</p> <p>Form available from: 1 October 2008</p> <p>Form will be sent to farmers who request one.</p>
3. Land registration Return date: Return form to RPA by 26 February 2009	<p>You will need to make sure that all the agricultural land on your entire holding is registered on the Rural Land Register (RLR) using an RLE01 form.</p> <p>Form available from: late November 2008</p> <p>Once customer registration is complete an RLE01 form will be sent when this is available.</p>	<p>Unless you have obtained unregistered land in the last year, all of your land should be registered. However, if you need to register land, please request an RLE01 form when you call to register your interest in the new entitlements.</p> <p>Form available from: late November 2008</p> <p>If you requested a form this will be sent to you from late November 2008 when it becomes available.</p>
4. New entitlements application Deadline date: Return form to RPA by 13 August 2009	<p>You can only apply for new entitlements on the SP20 form. You will require an SBI, CPH number and National Grid (NG) field numbers and sizes.</p> <p>Form available from: June 2009</p> <p>Form will be sent in June 2009 to all customers who have registered interest and completed the registration process.</p>	<p>You can only apply for new entitlements on the SP20 form. You will require an SBI, CPH number and National Grid (NG) field numbers and sizes.</p> <p>Form available from: June 2009</p> <p>Form will be sent in June 2009 to all customers who have registered interest.</p>

Please note:

We have introduced the timeline described above to make sure the processing of new entitlements does not affect processing of the 2009 and 2010 SPS. This allows us to plan ahead based on the accurate number of claimants.

If you wish to apply for new entitlements you should register your land early enough to have the field numbers and land parcel areas agreed, before you apply for new entitlements. This is because EU regulations only allow RPA to establish entitlements on the smaller area, either the area registered as eligible on the RLR or the area you have entered on your SP20 form. If you have not registered your land by 26 February 2009, you may not get what you are entitled to.

Please make sure that the CReg01 and RLE01 forms are marked 'ONV' on the top of the form.

If you currently receive the Area Payment for Nuts we will write to you separately.

8 What does RPA need to know?

When you contact us to register or confirm your interest in the new entitlements we will ask you for the following details:

- Name.
- SBI (Single Business Identifier) if known.
- CPH number (County, Parish, Holding) if known.
- Vendor number (if no SBI or CPH numbers) if known.
- Address.
- Telephone number.
- Whether or not your land has been registered on our RLR.
- How many eligible land parcels you wish to claim on.
- The approximate area of the land parcels (in hectares).
- The type of crops you have in the land parcels (permanent fruit or vegetables (including commercial orchards), nursery crops, vines).

We may already have some of these details if you have already contacted us previously.

9 Cross checks, Inspections, Penalties and Farm Records

We are required to carry out cross checks to ensure the information farmers provide us is correct. This applies to both land registration details and land use data. In June 2009 we will send out the new entitlements application form (SP20) and this will ask for details of the land on which you want to establish entitlements. The information you provide us will be checked against the existing SPS records, and also with Natural England and the Forestry Commission's records.

If we find parcels to be wrongly declared on the SP20, we may reduce the area on your application. If the information declared on your SP20 is correct but contradicts information you previously submitted for other claims, then we may apply penalties under the relevant schemes.

We inspect SPS claims on a random and risk basis and if we find discrepancies at a later date we may also apply deductions and penalties to claims based on wrong information supplied.

You are advised to keep records (for example, invoices from contractors, spraying records) which may confirm that you have provided complete and accurate information on your SP20. You may be asked to provide us with these records at a later date.

10 Key Dates

2008

September	We publish this more detailed <i>Information Note 2</i> which we are sending to those who have already expressed an interest in new entitlements. Farmers still intending to register for new entitlements should do this by telephone as soon as possible.
October	We will begin to send out customer registration forms (CReg01) and additional scheme information (including cross compliance guidance) to new SPS customers. We will begin to register new farmers (this could take several weeks).
November	We will begin to send out land registration information (RLE01 form and guidance booklet).
31 December	Farmers need to have registered their interest in new entitlements. We will begin to register new land (this could take several months).

2009

15 January	Farmers need to have returned their CReg01 form if required.
26 February	Farmers need to have completed and returned an RLE01 form to register their land if required.
June	We will send out the new entitlements application form (SP20) and guidance notes. We will begin the application validation process.
13 August	Deadline for RPA to receive completed applications for new entitlements.

2010

1 January	Start of SPS scheme year. From this date you must comply with all relevant cross compliance conditions.
January/February	We will send out an Entitlement Statement showing the number of new entitlements which you have been allocated. Entitlements will be available for transfer once you receive this statement.
March	We will send out 2010 SPS <i>Application Form</i> (SP5) to claim for payment against the entitlements allocated to you.
17 May	Deadline for RPA to receive completed applications for 2010 SPS.
December	2010 SPS payment window opens.

11 How do I get paid each year?

SPS has an annual application process. If you apply for new entitlements and are successful, in order to receive payment, you will need to apply in 2010 on an SP5 application form. We should send you one of these during March 2010 but if we do not, it is your responsibility to obtain a form, complete it and return it to RPA by 17 May 2010. You will then have to meet the scheme rules, cross compliance conditions and make an application every year to continue to be paid. The SPS payment window runs from 1 December of the scheme year to 30 June of the following year.

Entitlements in the SPS scheme have a flat rate value (which is the same for all entitlements in a region) and some have an additional element that relates to subsidies paid in the past. The new entitlements will be valued at the SPS flat rate. The flat rate will increase slightly in 2011 and 2012.

It is estimated that for 2010 the flat rates in the three English regions will be approximately:

- €230 per entitlement in the Non Severely Disadvantaged Area (Non SDA);
- €190 in the SDA; and
- €32 in the SDA Moorland.

Any payment will be reduced for modulation and any other deductions such as penalties. Modulation is the reduction of funds from direct aid schemes, such as SPS to fund rural development schemes, such as the Environmental Stewardship Scheme.

12 Where can I find out more information?

Our website (www.rpa.gov.uk) contains Information Notes 1 and 2, details of how to contact us, as well as full details of SPS. We will be updating our website with further information about the new entitlements as soon as this becomes available.

In June 2009, the new entitlements application form (SP20) will be sent out with guidance giving further information and tips on how to complete the form. The SP20 will be sent to farmers who have contacted us as described in section 7.

13 Claiming payment in 2009 using existing entitlements

Although the new entitlements will not be available to claim for payment under SPS until 2010, land used for permanent fruit and vegetables, nursery crops and vines in 2009 will be eligible to be used to claim a 2009 SPS payment against any existing SPS entitlements you already have, or obtain for that year. If you intend to claim for the first time in 2009 you must comply with all relevant SPS scheme rules and cross compliance conditions from 1 January 2009, the start of the scheme year.

14 Farmers with land outside England

The information given in this information note applies to land in England only. For land in the UK but outside England, you will need to contact the appropriate devolved administration to find out what arrangements apply. If we find any land declared on the SP20 to be outside England we will remove it from your application.

Regions in England

For the SPS there are 3 English regions. We will tell you the region your land is in when we send you the maps in reply to your RLE01 form.

15 How can I contact RPA?

Contact us by telephone on 0845 603 7777.

Or you can e-mail us at csc@rpa.gsi.gov.uk.

16 Regulations

The principal regulations of SPS are Council Regulation (EC) No 1782/2003 and Commission Regulations (EC) No 795/2004 and 796/2004 all as amended.

The relevant amending regulations are as follows:

- Permanent fruit and vegetables and nursery crops – Council Regulation (EC) No 1182/2007 and Commission Regulation (EC) No 1522/2007.
- Vines - Council Regulation (EC) No 479/2008.

17 Disclaimer

The information in this information note is based on our current understanding of the EU regulations. In particular, the allocation of new entitlements to vine farmers is subject to Commission approval of the UK's draft programme and possibly the adoption of detailed EU implementing rules. If the legislation, or our understanding of it changes, we will provide further clarification.

Annex I

Hardship and National Reserve

The following section relates to permanent fruit and vegetables and nurseries. We are currently seeking confirmation from the European Commission (EC) of how the Hardship and National Reserve provisions will apply for vines. We will issue guidance on our website (www.rpa.gov.uk) when it is available and will provide further information in the guidance which will be sent out with the new entitlements application form (SP20) in June 2009.

If you qualify for an allocation under more than one category of the National Reserve or Hardship provisions, you will only receive one allocation. The allocation you receive will be the one that offers you the largest benefit.

a) Hardship Provisions

We will normally calculate your entitlements based on the eligible area you have in the reference period. However, in cases of *force majeure* and exceptional circumstances, the regulations allow us to use an earlier year instead.

- *Force majeure* and exceptional circumstances

If the area of your production that you had in the 2008 reference period was adversely affected by unforeseeable circumstances that were beyond your control, and which could not reasonably have been avoided, you can apply to benefit from provisions in the regulation regarding *force majeure* or exceptional circumstances. If accepted, this would allow your number of entitlements to be calculated using 2007 data. Each case will be treated on its own merits, but examples of the type of circumstances intended to be covered by this provision are:

- Death or long term professional incapacity of the farmer.
- Severe natural disaster affecting the agricultural land of the holding, for example, severe flooding.

The impact of changing the eligible area can be illustrated with an example. Assume that a farmer had 100ha of vineyards in 2007 and in 2008 a severe storm devastated the field and reduced the area of eligible crops to 80ha for 2008. Normally he would only be allowed the 80 eligible hectares in 2008. However, if the farmer applied successfully to have the 2007 area used instead he would receive the 100ha shown in 2007.

Details of how to apply under the hardship provisions will be made available in the guidance notes which will accompany the new entitlements application form for SP20. This application pack will be sent to you in June 2009 (as long as you have contacted us to register your interest).

b) National Reserve Allocation

In addition to the hardship provisions, you can receive an increased allocation of entitlements under certain conditions, if the standard method of calculating the number of entitlements (based on the area of newly eligible crops in the 2008 reference period) provides an allocation, that does not properly reflect your current business.

For example, if by 1 November 2007 you had made an investment (purchased or leased, for six or more years, land intended for the production of newly eligible crops, or invested in increased production capacity for the purposes of increasing production in a newly eligible crop), but this investment was not reflected in your 2008 production, you may be eligible to apply for a National Reserve award. Again, further details will be provided in the guidance which will be sent out with the new entitlements application form (SP20) in June 2009.