

Usage Document for Farmers/Agents

Rules regarding usage of Entitlements/Usage

- All entitlements allocated under the BPS and National Reserve are subject to usage. The rule of usage can be summarised as follows;

If a farmer holds entitlements that have not been used for a period of two consecutive years, a number of entitlements equivalent to the total number of entitlements which have not been used shall revert to the National Reserve. The farmer shall always be given the benefit of the highest value entitlements, the Department will always revert the lowest value entitlements first.

If a farmer has unused entitlements for two consecutive years the lowest value entitlements held by that farmer revert to the National Reserve in the second year of non-use, regardless of whether they are leased, owned or were previously the subject of a transfer.

Usage is to be assessed at the level of the farmer.

What does this mean?

- *If a farmer holds entitlements that have not been used for a period of two consecutive years, a number of entitlements equivalent to the total number of entitlements which have not been used shall revert to the National Reserve.*

Farmers must activate 100% of entitlements in at least one of two consecutive years.

- Usage is assessed at the level of the individual farmer. When establishing what entitlements revert to the National Reserve the farmer shall always be given the benefit of the highest value entitlements.

Farmers cannot choose what entitlements revert to the National Reserve.

In all cases the lowest value entitlements revert to the National Reserve- regardless of whether such entitlements are owned or leased-in.

In cases where entitlements are leased, the Lessor's entitlements will be subject to the Lessee's usage position as usage is assessed at the level of the individual farmer.

Lessor's need to assess the rules of usage carefully before agreeing to lease entitlements to ensure that their own entitlements are not at risk due to the usage position of the lessee.

The onus is on the Transferor/Lessor to ensure that the Transferee/Lessee has sufficient land to activate the transferred entitlements.

- **If** owned and leased **entitlements have the same value**, owned entitlements revert to the National Reserve first.
This is only the case if owned and leased entitlements have the same unit value.
- In cases where a fraction of an entitlement has a higher value than the value of a whole number payment entitlement, the farmer shall always be given the benefit of retaining the highest value entitlement.
- Once a fraction of an entitlement is used, that entire entitlement shall be deemed to be fully used for the purposes of usage. In such cases payment is calculated pro-rata to the number of Eligible Hectares.

Example:

No. of Eligible Ha.	Number of Entitlements	Usage	Payment Calculation	
9.1	10 @ €100	All 10 entitlements are deemed fully used	(No. of Used Entitlements)x(Entitlement Value)	$(9.1) \times (\text{€}100) = \text{€}910$

- Please see examples below which set out how the rules of usage work.

Examples

The following examples are for illustrative purposes only and as such the entitlements shown are not subject to convergence.

1. 100% Used Entitlements - No Loss

	Entitlements	Ha	Used	Unused
2015	10 @ €100	10	10	0
2016	10 @ €100	10	10	0
2017	10 @ €100	10	10	0
<p><i>The Farmer has used all of his/her entitlements in every year. Farmer has 100% usage. There is no loss of entitlements.</i></p>				

2. Unused for 1 Year - No Loss

	Entitlements	Ha	Used	Unused
2015	10 @ €100	10	10	0
2016	10 @ €100	9	9	1
<p><i>1 entitlement unused by the farmer in 2016.</i></p> <p><i>If a farmer holds entitlements that have not been used for a period of two consecutive years, a number of entitlements equivalent to the total number of entitlements which have not been used shall revert to the National Reserve.</i></p> <p><i>In this case the farmer must use all his/her entitlements in 2018. Failure to do so would result in entitlements reverting to the National Reserve.</i></p> <p><i>If the farmer cannot find additional land to use the entitlements he/she could transfer out entitlements permanently/temporarily to another farmer who has land to use them. If the farmer is happy to do so, he can decide not to take any action and just let his entitlements revert to the National Reserve.</i></p>				

3. Unused for 2 Years - Unused Entitlements Revert

	Entitlements	Ha	Used	Unused
2015	10 @ €100	10	10	0
2016	10 @ €100	9	9	1
2017	10 @ €100	9	9	1
<p><i>1 entitlement unused by the farmer in two consecutive years 2016 and 2017.</i></p> <p><i>If a farmer holds entitlements that have not been used for a period of two consecutive years, a number of entitlements equivalent to the total number of entitlements which have not been used shall revert to the National Reserve.</i></p> <p><i>In accordance with EU Regulations 1 entitlement will revert to the National Reserve in 2017. When establishing what entitlements shall revert to the Reserve, the Department will always revert the lowest value entitlements first. 1 @ €100 reverts to the National Reserve</i></p>				

4a. Unused for 2 Years – Higher Value Entitlements Leased-in

Example showing non-usage in two consecutive years – one higher value set of entitlements with land leased-in by the farmer in 2017 (10 @ €150 leased-in entitlements shown in blue).

	Entitlements	Ha	Used	Unused
2015	20 @ €100	20	20	0
2016	20 @ €100	15	15	5
2017	20 @ €100 10 @ €150	25	25	5

5 entitlements unused by the farmer in two consecutive years 2016 and 2017.

If a farmer holds entitlements that have not been used for a period of two consecutive years, a number of entitlements equivalent to the total number of entitlements which have not been used shall revert to the National Reserve.

In accordance with EU Regulations 5 entitlements will revert to the National Reserve in 2017. When establishing what entitlements shall revert to the Reserve, the Department will always revert the lowest value entitlements first.

The entitlements with the lowest value revert to the Reserve regardless of whether the entitlements are leased, owned or were previously the subject to a Transfer.

In this example the entitlements with the lowest value are owned by the farmer. It is important to note that usage does not take into account whether entitlements are leased, owned or were previously the subject of a Transfer.

When determining the entitlements which will revert to the Reserve, the Department will always revert the entitlements with the lowest value in the year of reversion.

5 @ €100 will revert to the National Reserve in 2017.

4b. Unused for 2 Years – Lower Value Entitlements Leased-in

Example showing non-usage in two consecutive years – one lower value set of entitlements with land leased-in by farmer in 2017 (10 @ €90 leased-in entitlements shown in blue).

	Entitlements	Ha	Used	Unused
2015	20 @ €100	20	20	0
2016	20 @ €100	15	15	5
2017	20 @ €100 10 @ €90	25	25	5

5 entitlements unused by the farmer in two consecutive years 2016 and 2017.

If a farmer holds entitlements that have not been used for a period of two consecutive years, a number of entitlements equivalent to the total number of entitlements which have not been used shall revert to the National Reserve.

In accordance with EU Regulations 5 entitlements will revert to the National Reserve in 2017. When establishing what entitlements shall revert to the Reserve, the Department will always revert the lowest value entitlements first.

In this example those entitlements with the lowest value have been leased-in (the lessor had 100% usage in 2015 and 2016). It is important to note that usage does not take into account whether entitlements are leased, owned or were previously the subject of a Transfer.

When determining the entitlements which will revert to the Reserve, the Department will always revert the entitlements with the lowest value in the year of reversion.

Therefore 5 @ €90 (owned by the lessor) will revert to the National Reserve.

5a. Example Showing Leased Entitlements between 2 Farmers – Leased Entitlements with Higher Value

	Farmer A (Lessor)			Farmer B (Lessee)		
	Entitlements	Ha	Unused	Entitlements	Ha	Unused
2015	15 @ €200	15	0	20 @ €100	20	0
2016	15 @ €200	15	0	20 @ €100	18	2
<p><i>In 2017 the Lessor (Farmer A) completes a Transfer of 10 @ €200 Entitlements by way of Lease (duration 1 year).</i></p> <p><i>The Lessor (Farmer A) has 100% usage in 2016 – <u>if no transfer of entitlements took place in 2017 it would be impossible for the lessor (Farmer A) to lose entitlements through usage in 2017 as s/he has 100% usage in 2016 (in at least one of two consecutive years).</u></i></p> <p><i><u>In 2017 however the lessor's (Farmer A) leased out entitlements will be subject to the Lesee's (Farmer B) usage position as usage is assessed at the level of the individual farmer.</u></i></p>						
2017	5 @ €200	5	0	20 @ €100 10 @ €200	28	2
<p><i><u>2 entitlements unused by the Lessee (Farmer B) in two consecutive years 2016 and 2017.</u></i></p> <p><i>In accordance with EU Regulations 2 entitlements will revert to the National Reserve in 2017. When establishing what entitlements shall revert to the Reserve, the Department will always revert the lowest value entitlements first.</i></p> <p><i>In this example those entitlements with the lowest value are owned by the lessee (Farmer B). It is important to note that usage <u>does not take into account whether entitlements are leased, owned or were previously the subject of a Transfer.</u></i></p> <p><i>In all cases when determining the entitlements which will revert to the Reserve, the Department will always revert the lowest value entitlements first.</i></p> <p><i>Therefore 2 @ €100(owned by the Lessee – Farmer B) will revert to the National Reserve</i></p> <p><i><u>Usage is assessed at individual farmer level.</u></i></p> <p><i><u>All farmers need to be aware of the implications of usage particularly when leasing entitlements.</u></i></p> <p><i>Lessors need to assess the rules of usage carefully before agreeing to lease entitlements to ensure that their own entitlements are not at risk due to the usage position of the lessee.</i></p> <p><i>In this example the lessor's entitlements are not at risk because they are of higher value than other entitlements held by the lessee.</i></p>						

**5b. Example Showing Leased Entitlements between 2 Farmers – Leased Entitlements with
Lower Value**

	Farmer A (Lessor)			Farmer B (Lessee)		
	Entitlements	Ha	Unused	Entitlements	Ha	Unused
2015	15 @ €100	15	0	20 @ €200	20	0
2016	15 @ €100	15	0	20 @ €200	18	2
<p><i>In 2017 the Lessor (Farmer A) completes a Transfer of 10 @ €100 Entitlements by way of Lease (duration 1 year).</i></p> <p><i>The Lessor (Farmer A) has 100% usage in 2016 – if no transfer of entitlements took place in 2017 it would be impossible for the Lessor (Farmer A) to lose entitlements through usage in 2017 as s/he has 100% usage in 2016 (in at least one of two consecutive years).</i></p> <p><i>In 2017 however the Lessor's (Farmer A) leased out entitlements will be subject to the lessee's (Farmer B) usage position as usage is assessed at the level of the individual farmer.</i></p>						
2017	5 @ €100	5	0	20 @ €200 10 @ €100	28	2
<p><i>2 entitlements unused by the Lessee (Farmer B) in two consecutive years 2016 and 2017.</i></p> <p><i>In accordance with EU Regulations 2 entitlements will revert to the National Reserve in 2017. When establishing what entitlements shall revert to the Reserve, the Department will always revert the lowest value entitlements first.</i></p> <p><i>In this example those entitlements with the lowest value have been leased-in. It is important to note that usage does not take into account whether entitlements are leased, owned or were previously the subject of a Transfer.</i></p> <p><i>In all cases when determining the entitlements which will revert to the Reserve, the Department will always revert the entitlements with the lowest value in the year of reversion.</i></p> <p><i>Therefore 2 @ €100(owned by the Lessor - Farmer A) will revert to the National Reserve</i></p> <p><i>Usage is assessed at individual farmer level.</i></p> <p><i>All farmers need to be aware of the implications of usage particularly when leasing entitlements.</i></p> <p><i>Lessors need to assess the rules of usage carefully before agreeing to lease entitlements to ensure that their own entitlements are not at risk due to the usage position of the lessee.</i></p> <p><i>In this example the lessor's entitlements have been lost because they are of lower value than other entitlements held by the lessee.</i></p>						

6. Example showing impact of usage in cases which include a permanent transfer– one lower value set of entitlements with land bought by farmer in 2017 (10 @ €90 entitlements which were bought in 2017 shown in green).

	Entitlements	Ha	Used	Unused
2015	50 @ €100	50	50	0
2016	50 @ €100	45	45	5
2017	50 @ €100 10 @ €90	55	55	5

5 entitlements unused by the farmer in two consecutive years 2016 and 2017.

If a farmer holds entitlements that have not been used for a period of two consecutive years, a number of entitlements equivalent to the total number of entitlements which have not been used shall revert to the National Reserve.

In accordance with EU Regulations 5 entitlements will revert to the National Reserve in 2017. When establishing what entitlements shall revert to the Reserve, the Department will always revert the lowest value entitlements first.

In this example those entitlements with the lowest value have been gifted (the Transferor had 100% usage in 2015 and 2016) in 2017.

It is important to note that usage does not take into account whether entitlements are leased, owned or were previously the subject of a Transfer.

In all cases when determining the entitlements which will revert to the Reserve the Department will always revert the entitlements with the lowest value in the year of reversion.

Therefore 5 @ €90 will revert to the National Reserve

2018	50 @ €100 5 @ €90	55	55	0
2019	50 @ €100 5 @ €90	55	55	0

7. Fraction of an Entitlement Unused for 2 Years

Example showing non-usage in two consecutive years when there is not enough land to activate a fraction of an entitlement.

	Entitlements	Ha	Used	Unused
2015	50 @ €100	50	50	0
2016	50 @ €100	49.1	50	0
2017	50 @ €100	49.1	50	0

0.9 entitlements have no land declared against them by the farmer for two consecutive years 2016 and 2017.

However

EU Regulations state that when assessing usage, if a fraction of an entitlement has been used the entire entitlement can be deemed to be used for the purposes of usage.

*This means that because **a fraction of the entitlement has been used** (in this case 49.1) for the purposes of usage the entire entitlement is deemed to have been used.*

As such no Entitlements revert to the National Reserve as the farmer is deemed to have used all 50 entitlements.

Payment is made on 49.1 Entitlements.

The following examples all indicate how to determine usage positions in cases with a number of sets of entitlements which include fractions.

Due to Regulatory changes there are 2 rules to be aware of when dealing with such cases.

One Rule impacts 2015 and 2016 only.

The Second rule impacts 2017 and all following years.

EXAMPLE 8 Below Deals with the 2015 and 2016 Rule

EXAMPLE 9 and 10 deals with the 2017 and following years rule

Example 8 (This rule ONLY applies in 2015 and 2016)

	Entitlements	Eligible Ha.	Used	Unused
2015	49 @ €100	49.1	49	1
	0.6 @ €100			
	0.4 @ €100			
2016	49 @ €100	49.1	49	1
	0.6 @ €100			
	0.4 @ €100			

EU Regulations which were in place in 2015 and 2016 state that a fraction of a Hectare cannot support a Fraction of an Entitlement for the purposes of usage.

This is the case only in 2015 and 2016.

In this example there are 49 whole number entitlements and 49.1 eligible Hectares. The 49 whole number entitlements are fully used however there remains two fractions of entitlements(0.6 ents and 0.4 ents) and a fraction (0.1 Ha.) of a Hectare of Eligible Land.

Due to the Regulations which were in place in 2015 and 2016 in this case the 0.1 Ha. CANNOT be used to activate either of the two fractions of entitlements.

This only impacts scheme years 2015 and 2016. An Amendment to EU Regulations applies for all years from 2017 onwards (see example 9)

In this case the farmer is unable to activate any portion of the additional fractions of entitlements which s/he holds.

As such 1 entitlement(s)(0.4 + 0.6) are unused for 2 consecutive years 2015 and 2016.

Therefore 1 entitlement(s) reverts to the National Reserve.

Example 9 (This rule applies From 2017 Onwards)

	Entitlements	Eligible Ha.	Used	Unused
2017	49 @ €100	49.1	49.6	0.4
	0.6 @ €100			
	0.4 @ €100			
2018	49 @ €100	49.1	49.6	0.4
	0.6 @ €100			
	0.4 @ €100			

From 2017 onwards EU regulations were revised .

From 2017 onwards a fraction of a Hectare can activate a fraction of an Entitlement for the purposes of usage.

This is the case for 2017 and subsequent years.

In this example there are 49 whole number entitlements and 49.1 eligible Hectares. The 49 whole number entitlements are fully used however there remains two fractions of entitlements (0.6 ents and 0.4 ents) and a fraction (0.1 Ha.) of a Hectare of Eligible Land.

The Regulations referred to in Example 8 are amended for 2017 and all following years.

As such the 0.1 Ha. of Eligible land can be used to activate one of the fractions of entitlements (whichever is most beneficial to the farmer).

In this example the 0.1 Ha of land is being used to activate the 0.6 ents @ €100 Therefore the farmer has fully used 49.6 entitlements for the purposes of usage.

Payment is made in both years on 49.1 entitlements.

0.4 entitlements are unused for 2 consecutive years (2017,2018), as such 0.4 entitlements revert to the National Reserve

Example 10 (Example showing the two different fraction rules)

	Entitlements	Eligible Ha.	Used	Unused
2016	49 @ €100	49.1	49	1
	0.6 @ €100			
	0.4 @ €100			
2017	49 @ €100	49.1	49.6	0.4
	0.6 @ €100			
	0.4 @ €100			

This example shows a usage issue across 2016 and 2017. As illustrated in examples 8 and 9 the rules of usage when dealing with fractions differ in these years.

- *In 2015 and 2016 regulations state that a fraction of a Hectare cannot support a Fraction of an Entitlement for the purposes of usage.*
- *From 2017 onwards a fraction of a Hectare can activate a fraction of an Entitlement for the purposes of usage.*

As Entitlements are only reverted to the Reserve following 2 consecutive years of non-use, the new rules of 2017 determine what entitlements revert to the National Reserve for such cases.

However the correct rule must be respected in each scheme year.

In this example 0.4 entitlements are not active for two consecutive years; as such 0.4 entitlements revert to the National Reserve.

In all cases where the number of eligible hectares declared is equal to or greater than the number of entitlements held, all entitlements are 100% used for the purposes of usage. Example's 9A and 9B below demonstrate this.

Example 9A (This rule applies in all Years 2015 – 2019)

	Entitlements	Eligible Ha.	Used	Unused
2016	10.46 @ €100	10.46	10.46	0
2017	10.46 @ €100	10.46	10.46	0

In this example the number of eligible hectares declared in both years is equal to the number of entitlements held, therefore all entitlements are 100% used in both years.

Example 9B (This rule applies in all Years 2015 – 2019)

	Entitlements	Eligible Ha.	Used	Unused
2016	10.46 @ €100	11	10.46	0
2017	10.46 @ €100	11	10.46	0

In this example the number of eligible hectares declared in both years is greater than the number of entitlements held, therefore all entitlements are 100% used in both years.