



TRANCHE 2

Terms and Conditions of the ORGANIC FARMING SCHEME (OFS) 2015

Introduced by:

**THE MINISTER FOR
AGRICULTURE, FOOD AND THE MARINE**

In implementation of:

**Council Regulation (EU) No 1305/2013
and
Commission Regulations (EU) 807/2014; 808/2014 and 640/2014**

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Revised 2 December 2015

OFS payments will be co-funded by the National Exchequer and the European Agricultural Fund for Rural Development (EAFRD) of the European Union under Ireland's Rural Development Plan 2014-2020

The Department has prepared this document as an aid to ensure that farmers and advisors are aware of the requirements and conditions attaching to the payments concerned and to assist in completing applications for the OFS scheme. All applications to join the scheme must be submitted online by the applicant or his/her advisor with the exception of existing OFS participants and partnerships. If applicants have any queries in relation to their application please telephone Lo call 1890 200 509 or contact Organicunit@agriculture.gov.ie.

In the event that there are any changes to these Terms and Conditions they will be publicised immediately on the Department's website

IMPORTANT: THIS BOOKLET HAS BEEN PREPARED AS AN AID TO APPLICANTS AND ADVISORS, BUT THE GOVERNING EU REGULATIONS FORM THE DEFINITIVE BASIS FOR THE ADMINISTRATION OF THE SCHEME IN QUESTION, PARTICULARLY WITH REGARD TO ELIGIBILITY AND, WHEN NECESSARY, ANY PENALTIES THAT MAY BE APPLIED.

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1. Objective of the Organic Farming Scheme:

The overall objective of this Scheme is to deliver enhanced environmental and animal welfare benefits and to encourage producers to respond to the market demand for organically produced food.

2. General Provisions:

- a. The Scheme shall be administered by the Department of Agriculture, Food and the Marine and shall operate throughout the State.
- b. The Scheme is jointly funded by the European Union and the National Exchequer.
- c. The Scheme shall come into operation on 01 January 2016
- d. Farmers participating in the Scheme may also participate in other agri-environment measures, subject to Section 5, introduced in implementation of Council Regulation (EC) No. 1305/2013.
- e. Undertakings shall be for the duration of the contract.
- f. Participation in the Scheme is voluntary.
- g. Farmers may include a part of their holding in this Scheme.
- h. All applications will be subject to administrative checks and any other controls deemed necessary before payments are made under the Scheme.
- i. Participants are also required to comply with the various Statutory Management Requirements set down in EU legislation on the environment, public animal and plant health and animal welfare and to maintain land in Good Agricultural and Environmental Condition (GAEC).
- j. Participants in the Scheme must keep and retain for inspection such records as prescribed by the Minister in conformity with the requirements of Council Regulation (EC) No 834/2007 and Commission Regulation (EC) No. 889/2008. Records maintained for organic licensing purposes will fulfil this requirement.

3. Definitions:

For the purpose of this Scheme: –

- **“AEOS”** shall mean the Agri Environment Options Scheme.
- **“AGRI-ENVIRONMENT SCHEMES”** provide payments to farmers who subscribe, on a voluntary basis, to environmental commitments related to the preservation of the environment and maintaining the countryside. Examples of such schemes shall include the Agri-Environment Options Scheme (AEOS) or the Natura Scheme introduced in implementation of Council Regulation (EC) No. 1698/2005 and/or the Green, Low-Carbon Agri-Environment Scheme (GLAS) introduced in implementation of Council regulation (EC) No 1305/2013. This list is not exhaustive.

- **“AGENT”** means a person authorised by the Department to apply on behalf of an applicant for the purposes of this Scheme.
- **“ANC”** means an area of natural constraint
- **“ANNUAL PAYMENT CLAIM”** shall mean a claim for Organic Farming Scheme payment submitted through the Basic Payment Scheme Application under Article 12 to 14 of Commission Regulation (EU) No 809/2014.
- **“APPLICATION”** shall mean an on-line application for support under a fixed contract period, accompanied by related documents as outlined in Section 7, and such other documents as may from time to time be prescribed.
- **“APPROVED”** shall mean approved by the Minister or by an officer authorised by the Minister to convey approval.
- **“APPROVED TRAINING COURSE”** shall include the FETAC Level 5/CAS (Common Awards System) Introduction to Organic Farming course, or any equivalent course as may be determined by the Department of Agriculture, Food and The Marine (DAFM).
- **“BPS”** shall mean the Basic Payment Scheme.
- **“BFCP”** shall mean the Burren Farming for Conservation Programme.
- **“FARM” or “HOLDING”** shall mean all the production units in the State (owned, leased, and rented) that are under the control of the applicant.
- **“FARMER”** shall mean 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 Community territory, as referred to in Article 299 of the Treaty, and who exercises an agricultural activity.
- **“GAEC”** shall mean good agricultural and environmental condition.
- **“GLAS”** shall mean Green, Low-Carbon Agri-Environment Scheme.
- **“IACS”** shall mean the Integrated Administration & Control System established under Council Regulation (EC) No.1306/2013 and Commission Regulation No 809/2014.
- **“IN-CONVERSION PERIOD”** shall mean the period required to convert land parcels from conventional to full organic status.
- **“LAND PARCEL”** shall mean an area of land identified under the Land Parcel Identification System (LPIS).

- **“LEASE”** shall mean a term of absolute possession of the holding by the licensee to cover the full duration of the contract.
- **“MINISTER”** shall mean the Minister for Agriculture, Food and the Marine.
- **“OFS”** shall mean the Organic Farming Scheme.
- **“ORGANIC CONTROL BODY (OCB)”** shall mean a private inspection body approved by the Minister.
- **“ORGANIC FARMING”** shall include dairy farming, livestock production, the cultivation of fodder and tillage crops and the growing of horticultural crops in accordance with Council Regulation (EC) No. 834/07 of 28 June 2007 as amended, and Statutory Instrument No. 30 of 2009.
- **“ORGANIC UNIT”** shall mean the Organic Unit of the Department of Agriculture, Food and the Marine.
- **“OTHER DECLARATION”** shall mean any declaration or document, which has to be submitted or kept by a beneficiary or a third party to comply with the specific requirements of the scheme.
- **“PARTNERSHIP”** shall mean a legal partnership registered on the Register of Partnerships maintained by the Department
- **“SCHEME”** shall mean the “Organic Farming Scheme”.
- **“SMR”** shall mean Statutory Management Requirement.

4. Scheme Conditions:

- a. To be eligible to participate, any applicant who has not already participated in Supplementary Measure 6 (SM6) of REPS 1, REPS 2 or REPS 3 or previous OFS must have successfully completed an Approved Training Course and uploaded the formal Certificate of successful completion on the on-line OFS Application System on or before the 1st September 2016. In the case of a joint application, either participant may complete the course.
- a. Livestock and crop products must be produced in accordance with Council Regulation (EC) No 834/07 as amended. Statutory Instrument No. 30 of 2009 imposes additional conditions that must also be met.
- b. To be eligible for payment, land must be either owned or leased by the applicant for the full duration of the Scheme contract and declared on their annual BPS application. The farmer

who applies for the OFS must declare all of the land on his/her Basic Payment application and must be an organic licence holder. If the BPS application is made in joint names both names will be on the OFS application and therefore both names should be stated on the Organic Licence.

- c. Partial conversion of the farm/holding is allowed subject to the following conditions:
- If both organic and conventional crops are to be produced, different species of plant, or different varieties that can be easily differentiated at all stages of growth and production, must be used.
 - If both organic and conventional livestock are to be produced, different species must be involved.
- d. Participants are required to comply with the statutory management requirements (SMRs) and in addition to maintain all of the land which is encompassed within the holding in good agricultural and environmental condition (GAEC).
- e. Participants must submit an on-line application for the Basic Payment Scheme each year with the exception of existing OFS participants. Each on-line OFS application must relate solely to one BPS application. An on-line application for the Basic Payment Scheme each year will be deemed to be a payment claim under the OFS.
- f. Farmers participating in GLAS may also participate in and draw down payment under OFS but may not claim payment in OFS for certain GLAS actions. (*See Annex 5 for list of OFS payment allowable on GLAS Actions*)
- g. Farmers participating in the AEOS may also participate in and draw down payment under OFS but may not claim payment for the following actions on parcels declared for payment under AEOS:
- Species Rich Grassland,
 - Traditional Hay Meadow,
 - Riparian Margins,
 - Arable Margins and
 - Establishment and Maintenance of Habitats
 - Wild Bird Cover
- h. Farmers participating in the BFCP may also participate in and draw down payment under OFS but may not claim payment for the following action on parcels declared for payment under BFCP:
- The Production of species-rich limestone grasslands
- i. The Minister may restrict admission to the Organic Farming Scheme based on a Ranking System for Selection.

5. Eligibility:

- a. Participants who wish to avail of the Scheme must:
- Be an active farmer
 - Be registered with the Organic Unit of the Department of Agriculture, Food and the Marine.
 - Be registered with and be approved as an organic operator by one of the OCB's and hold a licence on or before date of submission of OFS application or at the latest hold a licence from 1st of month following date of submission of OFS application.
 - Be aged eighteen years or over on the date of application.
 - Declare all land farmed in the applicants name on the Integrated Administration and Control System (IACS)
- b. To be eligible to participate in this Scheme, the minimum farm area required is 3 hectares, except for horticultural producers where the minimum farm area is 1 hectare.
- c. All applicants must reach a minimum ranking of 25 marks to be deemed eligible for consideration for inclusion in the Scheme. (See Annex 4 - Ranking System for Selection)

6. Selection Procedure:

- a. While an application may be deemed eligible by reference to the conditions in section 5, the number of applications accepted into the Scheme will be determined by the funding.
- b. Under the current application period participants will be selected according to criteria which will include:
- Prioritisation of previous and existing OFS operators;
 - Achieving sectoral balance across horticulture livestock and cereal;
 - Prioritisation of total conversion over partial conversion;
 - Prioritisation of larger organic area;
 - Prioritisation of mixed farms;
- c. Selection, prioritisation and scoring criteria may vary for each new application period.
- d. The Minister may reject applications or require them to be varied if, in his opinion, they are not likely to contribute to the objectives of the Schemes.
- e. The submission of a valid application does not guarantee entry to the Scheme.
- f. Selected successful applicants will be notified in writing of their acceptance into the scheme and the commencement date of their contract.

7. Application Procedure:

- a. Application for support under the Scheme and payment claims shall be in accordance with Article 12 to 14 of Commission Regulation (EU) No 809/2014. An on-line application for support under this Scheme must be submitted not later than 31 December 2015
- b. Where an Approved Training Course is required and has been completed, a copy of the Certificate showing successful completion of the Training course by the licensee must be uploaded as part of the OFS online application. Where the Training course is successfully completed after the date of lodgement of the application, a copy of the Certificate showing successful completion of the Training course must be uploaded as part of the OFS online application on or before 1 September 2016
- c. Ineligible applications will be rejected.

8. Payments and Payment Procedures:

- b. To activate payment in the first year, a farmer must make a payment claim in accordance with the deadline for the submission of the Basic Payment applications. Only parcels declared on the on-line Basic Payment Scheme application and registered with a unique number on the Department's Land Parcel Identification System (LPIS) will be considered for payment under the Organic Farming Scheme. The maximum eligible area on which payment can be claimed is the eligible organic land declared on the initial online BPS application in the year of commencement of OFS contract subject to the provisions of Section 12 Reduction in Area.
- c. Where an Approved Training Course is required, no payment can be made until the formal Certificate of successful completion has been uploaded on the on-line OFS Application System on or before 1 September 2016
- d. In addition, to allow the second stage of the annual payment to be made for participants with organic livestock other than bovines, an Annual Declaration of Farming Activity (Form OFS 2) must be completed on-line, no later than two months after the end of each calendar year. Where the Annual Declaration of Farming Activity (OFS2) is not completed on line by the end of February, an appropriate administrative penalty will apply as outlined in Annex 2. A sample copy of Form OFS 2 can be found at Annex 7.
- e. All payment shall be made following administrative checks and/or on farm inspection. By submitting an on-line application, the applicant agrees to permit officials or agents of the Department to carry out on-farm inspections with or without prior notice at any reasonable time(s) and without prejudice to public liability

- f. The following shall not be eligible for payment under this scheme:
- Conventional land,
 - Commonage,
 - Grazing rights,
 - Rented land,
 - Forestry,
 - Farmyards,
 - Farm roadways
 - Other non organic productive land
- g. For online applications submitted from the opening date of the Scheme to the 31 December 2015 closing date, eligibility for payment will commence on the first day of the month following receipt of a valid online application. Any applications received later than the 31 December 2015 closing date will be deemed ineligible.
- h. To be eligible for the in-conversion rate of payment for the maximum of two years, the online application for the Scheme must be lodged within 4 months of the commencement date of the organic licence. Otherwise, eligibility to the full organic payment rate shall expire 2 years from the commencement date of the organic licence.
- i. Payment can be made only once at the in-conversion rate on each Land Parcel. Where parcels are re-converted, payment rates during re-conversion will be at rates applicable to full organic status.

9. Payments rates are as follows:

a. Horticulture Holdings:

Organic horticulture producers, with horticulture area of one hectare or more, are eligible for the following payments provided that at least 50% of the area eligible for organic payment is cropped¹ each year:

	Horticulture Area ≤ 6 hectares (ha)	Horticulture Area > 6ha and up to 60ha	Horticulture Area > 60 ha
In conversion	€300/ha	€220/ha	€60/ha
Full organic status	€200/ha	€170/ha	€30/ha

b. Tillage Holdings:

Organic tillage producers, with tillage area of six hectares or more, are eligible for the following payments:

¹ When calculating the percentage of the area cropped, any area under green manures cannot be included in the calculation.

	Tillage Area ≤ 20 hectares (ha)	Farmed Area > 20ha and up to 60ha	Farmed Area > 60 ha
In conversion	€260/ha	€220/ha	€60/ha
Full organic status	€170/ha	€170/ha	€30/ha

c. **All Other Holdings :**

Applicants with 3 hectares or more of utilisable agricultural area are eligible for the following payments:

	Farmed Area of ≥ 3ha up to 60ha	Farmed Area > 60ha
In conversion	€220/ha	€60/ha
Full organic status	€170/ha	€30/ha

d. **Additional Option:**

- In addition, a top-up of €30/ha per annum for red clover is included up to a maximum of 10 hectares. See Annex 6

e. **Livestock Production Payments:**

- Payment will be computed on the basis of a minimum stocking level of 0.5LU per hectare (32.5 KG Organic Nitrate per ha/per annum) of the forage area declared on your BPS application. 1 LU = 65kg Organic Nitrogen = 1 suckler cow. Farmers not reaching this level will receive payment on a pro rata basis to their level of production.

f. **Crop Production Payments:**

- In the case of stockless organic crop producers, payment will be made in full where at least 50% of the eligible area for organic payment is cropped each year or pro-rata where less than 50%.
- For farmers engaged in both arable crop and livestock production where less than 50% of the arable area is cropped, payment will be calculated on a pro-rata basis.

10. Penalties:

- a. Failure to comply with the scheme terms and conditions will result in an appropriate penalty/sanction as outlined in [Annex 3](#). Serious breaches of Scheme conditions may lead to termination of participation and/or exclusion from the Scheme for a period commensurate with the seriousness of the breach, and the refund of monies already paid. Penalty amounts may be deducted from future payments due to the applicant under this scheme or from payments due under other schemes.

- b. Monetary penalties will include interest payable at the rate provided for under SI No. 13 of 2006. Interest will be calculated for the period elapsing between the notification of the repayment obligation to the farmer and either repayment or deduction. Penalty amounts may be deducted from future payments due to the applicant under this scheme or from payments due under other EU-financed schemes. Where monetary penalties are not paid or recovered within the period requested, the Department may take whatever further action is deemed necessary for their recovery.
- c. Withdrawal of the licence by the Department or OCB within the term of the OFS contract shall mean termination from the Scheme and full recoupment of all aid paid, including interest payable under SI No. 13 of 2006.
- d. Non-renewal of an organic licence by the participant within the OFS contract period shall mean termination from the Scheme and full recoupment of all aid paid, including interest payable under SI No. 13 of 2006, except where a participant has ceased farming and has already completed three years in the Scheme. Where a fourth or fifth year payment has issued and the participant does not complete the full year for which payment was received, a proportionate re-imburement will apply to that payment.
- e. Reductions/penalties as per BPS rules will be applied to all over-declaration for payments. See Annex 3
- f. Where the percentage over-claim is greater than either 2ha or 3% (whichever is the less) but not more than 20% of the area determined, a penalty of double the difference applies — the difference in area found is doubled and the penalty is calculated using the applicable rate of payment.
- g. Where the percentage over-claim is greater than 20%, no aid will be paid for the year in question. Moreover, where the % over claim exceeds 50%, no aid is payable under the Organic Farming Scheme for one year and a further sanction equal to the amount payable on the difference in areas between the declared and determined areas is applicable.
- h. Where any over declaration occurs and where degressive aid rates apply, e.g. applicant's area exceeds the 60 ha payment band, the payment rate used to calculate deductions will be the average payment rate based on the areas declared by applicant.
- i. Where an irregularity occurs as determined by the Department, or reported by the OCB and confirmed by the Department, a penalty, where relevant and as per the Penalty Schedule, will be applied, including interest payable under SI No. 13 of 2006.
- j. Where a participant continues to farm organically, i.e. licensed by an OCB, but does not retain all the land parcel(s) under organic production methods for the duration of the commitment, the Department will recoup the amount paid in respect of the land parcel(s) not retained under organic production, including interest payable under SI No. 13 of 2006 and future payments will be calculated on the reduced area with due regard to the exception outlined in Section 12 (e, f & g) hereunder

- k. Where an on-line application for the Basic Payment Scheme is not submitted within the specified period under the Basic Payment Scheme, a penalty of 1% per working day will apply to the Organic Farming Scheme payments. If the delay in submission of the on-line Basic Payment Scheme application amounts to more than 25 calendar days, except in the case of force majeure, the application shall be deemed inadmissible and no aid shall be granted for the year to which the application relates.
- l. Where, in the course of an inspection under the Basic Payment Scheme, a breach of cross-compliance is detected, the level of penalty determined under the Basic Payment Scheme will also be applied to the payment under the Organic Farming Scheme.

11. Adding Land to an Existing OFS Contract:

Where additional land is acquired in the course of an approved contract and it is desired to bring this into payment the following will operate:

- a. Where the additional land is already under contract with another OFS participant, the participant may apply to transfer this land to their existing OFS contract. This must be done by submitting an Application Amendment Form (OFS 1 AM) to the Organic Unit, Department of Agriculture, Food and the Marine, Johnstown Castle Estate, Co. Wexford any time between 1st January of the year in question and the closing date that year for BPS applications (at the latest). Applications to bring such additional land under contract may only be submitted in **years one, two, three or four** of the applicant's original contract. Payment on this eligible additional land will only be considered if the land is included in the participant's organic licence from 1 January of the relevant year in which case a full year payment will be made; part-year payments will not be made.
- b. Where the additional land is not already under contract with another OFS participant and is being converted for the first time, or is in process of conversion, or has completed conversion within the calendar year prior to the date of application herein, the participant may apply to add this land to their existing OFS contract. This must be done by submitting an Application Amendment Form (OFS 1 AM) to the Organic Unit, Department of Agriculture, Food and the Marine, Johnstown Castle Estate, Co. Wexford any time between 1st January of the year in question and the closing date that year for BPS applications (at the latest). Applications to bring such additional land under contract may only be submitted in **years one, two or three** of the applicant's original contract. Payment on this eligible additional land will only be considered if the land is included in the participant's organic licence from 1 January of the relevant year in which case a full year payment will be made; part-year payments will not be made.
- c. It is important to note that if the additional land has already been converted to organic production and has completed conversion prior to the timeframe specified in 11b above i.e. has completed conversion within the calendar year prior to the date of application herein, and is not already under contract with another OFS participant, then such land is ineligible for addition to an existing OFS contract. Such land can only be brought into payment by way of a separate contract, which in turn can only issue in response to a general call for new applications.

NOTE: Land cannot be added to an existing OFS contract in year 5.

12. Reduction in Area:

Where the eligible area is reduced, the annual payment will be adjusted accordingly.

- a. If reimbursement is required, all monies paid in respect of lands removed from organic production will be sought plus interest as outlined in Section 10.b
- b. Transformation of a commitment into a Forestry commitment is not provided for under the governing regulations and the exemption from recoupment where land is subsequently afforested will not apply under OFS. Advisors in preparing applications should ensure that parcels on which OFS commitments are to be delivered will be available for the contract period.

The re-imburement of aid will not be required in the following cases:

- c. Where the OFS participant dies within the five year contract period
- d. Where the existing OFS participant, having completed three years in the scheme, is definitively retiring from farming.
- e. Where part of the holding on which the OFS commitment exists is transferred.
- f. Where the area farmed is reduced because of land acquired under a compulsory purchase order (CPO).
- g. In addition re-imburement will not be required in respect of lands sold or transferred arising from a requirement of a Court Order in divorce or judicial separation proceedings or a marital settlement or separation agreement.

13. OFS and Afforestation:

Afforestation is recognised as contributing to the creation of a valuable landscape mosaic at farm-level. However, the flexibility which applied previously whereby parcels which were in payment under an agri-environment scheme could be converted to forestry without penalty is no longer available under the EU rules and regulations governing the new Programme. Applicants and their Advisors should look at the opportunities afforded by both schemes when planning for OFS and if considering forestry, plan in advance of OFS application. If you subsequently decide to afforest an OFS parcel please note that full recoupment of all monies received in respect of OFS on the parcels concerned will be required.

14. Joint/Multiple Applicants:

Where the application is made in more than one name, each person named will be jointly and severally responsible for delivery of the commitments entered into and be jointly and severally subject to all Scheme Terms & Conditions.

Where the application is made in more than one name, the applicants must have a single herd number and declare all their lands on IACS under this herd number.

15. Farm Partnerships:

Farmers in a Farm Partnership registered with the Department are eligible to apply for the scheme provided that:

- a) The application is made in the same name as the Basic Payment Application
- b) The application is accompanied by a list of the LPIS parcels each individual partner has brought to the partnership.
- c) With regard to the training course, one partner in the partnership must complete or have completed the relevant training course as outlined in Section 4.
- d) Minimum area for partnership shall be the same as for an individual applicant.
- e) Maximum area for higher payment in each category as outlined in Section 9 shall be the maximum multiplied by the number of partners up to a maximum of 3.
- f) All partners are jointly and severally responsible for delivery of all OFS actions on the lands farmed by the partnership.

16. Appeals:

In cases where penalties are applied under this Scheme, participants will be given ten working days after formal notification by the Department's local office in which to appeal in writing to the local office and give reasons why any penalty imposed should not be applied. The participant will be informed in writing of the outcome of the appeal. This is without prejudice to a participant's rights under the Agriculture Appeals Act, 2001.

17. Monitoring and Evaluation

Monitoring and evaluation of the OFS programme shall be carried out in line with the provisions of Commission Regulation (EU) No. 808 of 2014 and any future amendments thereof. Participants in OFS shall facilitate the monitoring and evaluation.

18. Force Majeure:

Where a participant is unable to continue complying with the commitments given for reasons beyond his/her control, a case may be made under *force majeure* to terminate his/her participation in the

Scheme. In such cases the participant or his or her representative should inform the Organic Unit in writing with relevant evidence, within 15 working days of being able to do so. Without prejudice to the actual circumstances to be taken into consideration in individual cases, the following categories of *force majeure* may be recognised:

- a. Death of the participant.
- b. Long term professional incapacity of the participant,
- c. Expropriation of a large part of the holding if such expropriation could not have been anticipated on joining the Scheme.
- d. A natural disaster affecting the holding's agricultural land,
- e. The accidental destruction of livestock buildings on the farm,
- f. An outbreak of disease affecting all or part of the livestock on the farm
- g. The disposal or vacation of land to satisfy a court order or legal settlement in cases of martial breakdown.

19. Death of participant

- a) Where a participant dies during the contract period, force majeure shall be applied terminating the agreement and no reimbursement of aid already paid shall be sought and where a valid payment claim is on hands payment will be made up to date of death.
- b) Alternatively, an eligible survivor who is entitled to give the necessary undertakings may apply to take over the contract for the period remaining.

20. Right of Entry:

- a. The Minister reserves the right to carry out inspections at reasonable times of any land, premises, plant, equipment, livestock and records of applicants/participants in this Scheme.
- b. Failure to allow an inspection by the Department to proceed may lead to withholding or recovery of any aid.

21. Approval of an Application:

The approval of any application shall at all times be subject to the condition that, the application is justified in the opinion of the Department.

22. Responsibility of Applicant:

It shall be the responsibility of the applicant to familiarise himself/herself with the Scheme Terms and Conditions and with the consequences for breaches of the Scheme. The approval or payment of aid under this Scheme does not imply the acceptance by the Minister of any responsibility as regards the obligations undertaken by the participant. If the applicant is a participant in one of the other Agri-Environment Schemes, he/she must fulfil all of their obligations under these schemes. In addition, the applicant must ensure that all of his/her obligations under the Basic Payment Scheme are complied with. In this regard the farmer who declares the land in question on his/her on-line Basic Payment

application is responsible for any non-compliance with the Statutory Management Requirements and GAEC under Cross-Compliance for the calendar year concerned.

23. Failure to abide by the terms and conditions of the Scheme:

- a. Where, for the purposes of obtaining payment under this Scheme to which these terms and conditions relate, the participant knowingly makes a false or misleading statement or withholds essential information, his/her participation in the Scheme may be terminated and all or part of the aid paid shall be reimbursed. The Minister reserves the right to offset such amounts against other monies payable by the Department under EU-financed or co-financed Schemes to the applicant in such cases. The Minister also reserves the right to exclude such a person from further participation in the Scheme for such period as shall be determined, but in any event not exceeding five years.
- b. Where a participant fails to abide by the terms and conditions of the Scheme or if there is any material change in the circumstances of the participant which would be in conflict with the letter or the spirit of the scheme, participation may be terminated and all or part of the aid paid shall be reimbursed. The Minister also reserves the right to offset such amounts against other monies payable by the Department to him/her.
- c. The obtaining of aid or the attempt to obtain aid under this Scheme by fraudulent means by the participant or others acting alone or together may render such persons liable to prosecution.

24. Review of Financial Aids:

The Minister reserves the right to vary the amount of financial aid wherever specified in the Scheme subject to the provisions of any relevant European Union legislation and to national budgetary constraints.

25. Procedures:

The Minister reserves the right to alter from time to time the procedures to be followed in the operation of these Schemes.

26. Conditions of Payment:

Every payment under this Scheme shall be subject to conditions laid down by the Minister, which must be complied with in full by the applicant.

27. Tax Clearance Requirement

Payment of financial aid as provided for in these Schemes may be subject to the condition that a tax clearance certificate from the Revenue Commissioners be furnished before a payment can be issued.

28. Information and Data Protection:

The Minister reserves the right to make public information regarding the areas covered by this Scheme including the number of participants, hectares covered etc. and other information required for environmental purposes and to make information available to other Government Departments and/or agencies involved with the implementation of EU cross-compliance requirements under the Basic Payment Scheme.

The Minister may from time to time disclose information relating to participants in the Scheme to other Government Departments and/or agencies for the purpose of implementing national and European legislation

Commission Regulation (EC) Number 259 of 2008 as amended by Commission Regulation (EU) Number 410/2011 requires EU Member States to publish details of legal persons who are recipients of CAP subsidy payments on a single national website. Examples of legal persons are registered companies, other incorporated bodies, limited liability partnerships and trusts. Details of natural persons such as sole traders are not included on the searchable database.

All applicants under the Scheme should note that Regulation 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the CAP, provides for the publication of details of CAP beneficiaries, whether natural or legal persons and that the data may be processed by auditing and investigating bodies of the European Union and the Member States for the purpose of safeguarding the Union's financial interests

In accordance with the provisions of Council Regulation (EC) Number 1290 of 2005, the Department of Agriculture, Food and the Marine may be required to publish on a website, details of the names, addresses and amounts received by beneficiaries of funds deriving from the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD). The rights of data subjects and how they may be exercised, in this respect, are laid down in the Data Protection Acts, 1988 and 2003. The data therein may be processed by auditing and investigating bodies of the Communities and the Member States for the purposes of safeguarding the Communities' financial interests. The data therein cannot be used for direct marketing or other purposes and this will be made clear on the website. You should also be aware that all the information supplied on your application form and in any supporting documentation shall be made available to any other Department or Agency or Local Authority for the purpose of audits, cross-compliance controls and all Rural Development measures, and, as appropriate, in accordance with the requirements under the Freedom of Information Act.

Participants agree to be bound by the provisions of Article 57(3) and Annex VI, paragraph 2.1 of Commission Regulation No 1974/2006, which provides, *inter alia*, for the publication of a list of scheme beneficiaries and the amount of public contributions allocated.

29. Further Conditions:

The Minister may at any time alter the conditions of this Scheme or lay down others.

Livestock Unit (LU) Equivalents & Computation

When calculating the number of livestock units (LU) on the farm, the following LU equivalents should be used:–

Dairy Cow	1.0 LU
Suckler Cow	1.0 LU
Cattle 0–1 year	0.4 LU
Cattle 1–2 year	0.6 LU
Cattle over 2 years & or Bulls	1.0 LU
Mountain Ewe + Lamb	0.15 LU
Lowland Ewe + Lamb	0.15 LU
Lowland Hogget	0.15 LU
Mountain Hogget	0.15 LU
Goat (milking)	0.25 LU
Goat (non-milking)	0.15 LU
Deer (Red)	0.38 LU
Deer (Fallow/Sika)	0.15 LU
Sow (farrow to finish)	1.1 LU
Sow (farrow to weaner)	0.8 LU
Finishing pig	0.08 LU ²
Laying hen	0.015 LU
Goose	0.03 LU
Turkey	0.03 LU
Broiler	0.005 LU
Duck	0.005 LU

² For finishing pigs, a throughput of 2 pigs/pig place/year is assumed. Example: 40 finishing pigs per pig place would equate to 80 pigs throughput per year.

Administrative Penalties:

- a. Late submission of the annual application for the Basic Payment Scheme will result in the application of penalties for the OFS as outlined in paragraph 10 of these Terms and Conditions.
- b. Late submission of the Annual Declaration of Farming Activity (OFS 2) will result in the imposition of 100% payment penalty on any additional payment beyond bovine, tillage and horticulture.
- c. The revoking of the organic licence will result in the termination of the contract and the full recoupment of all aid paid under the scheme including, where applicable, interest payable under SI No. 13 of 2006.
- d. The non renewal of an organic licence by the scheme participant during the contract period shall result in termination and recoupment of all aid paid under the scheme including, where applicable, interest payable under SI No. 13 of 2006.
- e. Where a breach of cross- compliance requirements (GAEC, SMRs) is detected or cross reported the penalty will be cumulative with any other specific breaches of OFS found.
- f. Any breaches of Cross Compliance detected on inspection will be cross reported and may lead to appropriate penalties on your BPS, ANC, REPS, AEOS, GLAS, BFCP payments.
- g. In addition to the Scheme specific penalties, reductions/penalties as per BPS/IACS rules will be applied to area over-declarations.
- h. Cross Reporting – As per penalty section 10 I of this document.

Penalty Schedule (Organic Farming Scheme).

Non-Compliance	Scheme Penalty
Baseline Breach	100%
Livestock manure applied in excess of 170 kgs/Organic Nitrogen per hectare per annum.	100%
Use of Prohibited Pesticides	50%
Use of Prohibited Chemical Fertilisers	50%
Inadequate segregation/separation of conventional and organic enterprise/lands on farm.	20%
Where there is <u>partial conversion</u> of the holding: <u>For crop production</u> : the same species or not easily identifiable variety sown. <u>For animal production</u> Same species of animal on both holdings	50% 50%
Failure to keep records as required	50%
Inadequate record keeping	20%
Use of non-organic seed /vegetative propagating material where not permitted	20%
Use of allopathic (conventional) medicines where not permitted or non compliance with withdrawal period.	20%
Use of non-organic feed where not permitted.	20%
Origin of livestock not in conformity with requirements of the regulation.	20%
Animal housing not meeting minimum requirements of the regulation.	20%
Farm Management practices requiring derogation, undertaken without prior approval.	20%
Farming practices not in compliance with organic regulations.	20%

Cont'd

Penalty Schedule for Red Clover:	
Non Compliance	Scheme Penalty
Action not delivered or minimum area not delivered (1 Ha).	<ul style="list-style-type: none"> • Rejection from Clover option and Clawback of all clover option monies received to date.
Area over declared	<ul style="list-style-type: none"> • Reduced Clover payment if there is a difference between eligible area found and area claimed using IACS Rules. Clawback amount not delivered in previous years. Clover payment will be limited to delivery found.
Action not managed as set out in points 6 to 8 of the OFS specification. Payment on area found is allowed however as action not managed as per specification:-	<ul style="list-style-type: none"> • Penalty is the non-complaint area multiplied by the annual payment rate for the action for one year
<p>NOTE:</p> <ol style="list-style-type: none"> 1. Where a second breach for the same action occurs then the penalty amount will be doubled. 2. The maximum annual penalty cannot exceed the maximum payment amount for the year. 3. All Baseline breaches are cross reported to the Basic Payment Unit of DAFM and these penalties are also applicable to your BPS and Greening payments. 	

OFS Ranking And Selection Criteria

Annex 4

Existing OFS participants and Licensed Organic Operators – whose OFS contract expired in 2013/2014/2015	Sectoral Balance Enterprise (Max. 50 Marks) (MR). As per AHCS/BPS database or as per application form	Total Conversion versus Partial Conversion (% of eligible land from holding) (Max 50 Marks) as per BPS application 0.5 Mark per 1% of land Converted	Larger operators (Max 50 Marks). 1 mark per Ha for owned land 0.5 for leased land.	Mixed farm. (Operators with Arable and Forage on their BPS application). Max marks 10
	Criteria Marks	Criteria (examples) Marks	Criteria (examples) Marks	Criteria Marks
50 Marks	1. Horticulture 50	1. 100% converted = 50 Operator with 50 Ha converted	1. Operator with 70Ha 50 owned OFS application	1. Mixed farm 10
	2. Cereal 45	2. 50% converted = 25 60Ha - operator with 30Ha converted	2. Operator with 50ha 25 Leased on OFS Application.	
	3. Livestock 35	3. 1% converted = 5 100Ha - operator with 1ha converted etc.	3. Operator with 50Ha 50 Owned on OFS application.	
			4. Operator with 20Ha 20 Owned on OFS Application etc.	

Where a participant is in both GLAS and OFS, the following GLAS actions are payable on OFS parcels	
Arable Grass Margins	Allowed along with OFS payment
Bat Nest Boxes	Allowed along with OFS payment
Bird Nest Boxes	Allowed along with OFS payment
Conservation of Solitary Bees (Boxes)	Allowed along with OFS payment
Conservation of Solitary Bees (Sand)	Allowed along with OFS payment
Breeding Waders	Allowed but only where OFS payment forgone for that area
Chough	Allowed but only where OFS payment forgone for that area
Corncrake	Allowed but only where OFS payment forgone for that area
Geese and Swans	Allowed but only where OFS payment forgone for that area
Grey Partridge	Allowed but only where OFS payment forgone for the LPIS Parcel within which the Grey Partridge margin is located
Hen Harrier	Allowed but only where OFS payment forgone for that area
Twite A	Allowed but only where OFS payment forgone for that area
Twite B	Allowed but only where OFS payment forgone for the LPIS Parcel within which the Twite B margin is located
Twite C	Allowed but only where OFS payment forgone for that area
Catch Crops	Allowed along with OFS payment
Commonage Management Plan	Allowed along with OFS payment as no payment for commonage in OFS
Coppicing of Hedgerows	Allowed along with OFS payment
Environmental Management of Fallow Land	Allowed but only where OFS payment forgone for the LPIS Parcel
Farmland Habitat (Private Natura)	Allowed along with OFS payment
Laying of Hedgerows	Allowed along with OFS payment
Low Emission Slurry Spreading	Allowed along with OFS payment
Low Input Permanent Pasture	Allowed, but only where OFS payment forgone for that area
Minimum Tillage	Allowed along with OFS payment
Planting a Grove of Native Trees	Allowed, but only where OFS payment forgone for that area
Planting New Hedgerow	Allowed along with OFS payment
Protection and Maintenance of Archaeological Monuments (Tillage Parcels)	Allowed along with OFS payment Allowed but only where OFS payment is forgone for the LPIS Parcel within which the tillage monument is located
Protection and Maintenance of Archaeological Monuments (Grassland Parcels)	Allowed along with OFS payment
Protection of Watercourses from Bovines	Allowed along with OFS payment
Rare Breeds	Allowed along with OFS payment
Riparian Margins	Allowed but only where OFS payment is forgone for the LPIS Parcel within which the riparian margin is located
Traditional Dry Stone Wall Maintenance	Allowed along with OFS payment
Traditional Hay Meadow	Allowed, but only where OFS payment forgone for that area
Traditional Orchards	Allowed along with OFS payment
Wild Bird Cover	Allowed, but only where OFS payment forgone for that area

Red Clover Specifications.

Annex 6

Definition:

Establish and manage Red Clover (*Trifolium pratense*) leys as a mono-crop or in combination with appropriate grass mixes.

Objective:

Promote the establishment of Red Clover leys as a high protein feed, enhance soil fertility and biodiversity.

Background:

Organic cattle and sheep must be fed exclusively on organic diets. The low production of organic cereals and pulses is a major impediment to the development of the organic meat and dairy sectors. Red clover grown on its own or, more usually, with a companion grass can provide a high protein feed for herbivores while also delivering for the environment. It is desirable to incentivise the growing of red clover.

Participation:

This measure is available to organic farmers participating in the Organic Farming Scheme (2015 – 2020)

A minimum area of 1 hectare must be delivered for this Option.

The maximum area eligible for payment is 10 hectares.

Payment will be an additional top-up of €30 per eligible hectare per annum for 5 years.

Procedure:

Indicate participation in this measure by ticking the appropriate box in the on-line Application Form.

In the 2016 Basic Payment Scheme annual declaration identify those LPIS parcels as **Red Clover** on which the red clover will be established and maintained. This is the area which must be maintained for the 5 years and on which payment will be made.

Requirements:

1. The crop shall be grown and maintained for a minimum of 5 years.
2. As a minimum, the initial declared area must be maintained for the 5 years.
3. The red clover shall be grown on full LPIS parcels and declared annually as Red Clover in the Basic Payment Scheme declaration. The red clover may be rotated but only on full LPIS parcels.
4. Red Clover plots must be established not later than 1st September 2016. Sowing between April to July gives best results.
5. Where plots are rotated clover must be established by 31st July of that year.
6. Method of establishment (reseeding, overseeding, etc) is at farmer's discretion. Crop failure must be re-established.
7. When sown alone or in combination with companion grasses a minimum of 12 kilograms of Red Clover seed per hectare shall be used. Retain receipts for Clover Seed.
8. Be aware that Red Clover is sensitive to grazing, trampling and poaching. Where grazed light autumn grazing is advised.

OFS 2 - Annual Declaration of Farming Activity

This form ***MUST BE*** completed on-line by **28 February 2017**, otherwise penalty shall be imposed as outlined in Annex 2 of the Terms and Conditions of the OFS..

Herd No: _____

Farmer (Name & Address): _____

All livestock on your farm in 2016 excluding bovine should be included in the box below. (Total number on the farm at the end of each month to be included).

Payment for Year: 2016

Actual number of animals at end of each month

N.B. Bovines must NOT be included as Department already has your figures.

Livestock Type	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Ewe												
Hogget												
Goat (milking)												
Goat (non-milking)												
Deer (red)												
Deer (Fallow/Sika)												
Sow (farrow to finish)												
Sow (farrow to weaner)												
Finishing Pig												
Laying Hen												
Goose												
Turkey												
Broiler												
Duck												

Declaration by Applicant:

I/we declare that, to the best of my/our knowledge, all particulars given on this form are correct. I/we agree to observe and be bound by the Terms and Conditions of the scheme and to make available all required information to the Department of Agriculture, Food & the Marine. I/we understand that it is the applicant's responsibility to acquaint himself/herself with the conditions of the Scheme.