


Derogation for Ireland pursuant to EU Council Directive 91/676/EEC
concerning the Protection of Waters against Pollution caused by Nitrates from agricultural sources

 <p>An Roinn Talmhaíochta, Bia agus Mara Department of Agriculture, Food and the Marine</p>	<p>2020 Nitrates Derogation Terms and Conditions</p> <p>Closing Date for Applications <u>24th April 2020</u></p>
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Before completing the online application, please familiarise yourself with the terms and conditions of the Nitrates Derogation as outlined below.

Failure to comply with these terms and conditions will result in the rejection of the Nitrates Derogation for 2020 and will be considered in subsequent applications.

Cross Compliance breaches, including exceeding the 250 kg N/ha limit, will be notified to Basic Payment Scheme (BPS) and are subject to the BPS penalty schedule. All related documents and FAQ are available at:

<https://www.agriculture.gov.ie/ruralenvironmentsustainability/environmentalobligations/nitrates/nitratesderogation/2020nitratesderogation/>

Reminder: 2019 fertiliser accounts must be submitted ONLINE no later than April 24th, 2020 for those who applied for a Nitrates Derogation in 2019

The Nitrates Derogation Review has introduced further requirements for derogation farmers who must

1.

- Adopt a farm scale liming programme from 2020.
- Use low emission slurry spreading (LESS) equipment for all slurry spread after April 15th, 2020.
- Reduce the crude protein in concentrate feed for grazing livestock with a maximum of 16% crude protein permissible between April 1st and September 15th, 2020.

2. Derogation farmers must also:

- Exclude commonage/rough grazing from the derogation allowance of 250 kg N/ha
- Participate in an approved environmental training course by the end of 2021.
- Participate in grassland management requirements from 2020, including grass measuring and annual grass production recording.
- Alternatively, if derogation farmers haven't the required skills to undertake this measure, they must participate in grassland management training which must be completed by the end of 2021.
- Incorporate Clover in any newly reseeded swards on derogation 2020.
- Adopt at least one measure from the All Island Pollinator Plan on order to enhance biodiversity on farms.

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Please read the eligibility criteria and the conditions below carefully before making an application to ensure that you are eligible for a derogation and that you can meet all the conditions in full during the current year.

ELIGIBILITY CRITERIA

- You must be farming a holding that is at least 80% grass.
- You must have grazing livestock – derogation is only available in respect of grazing livestock.
- You must make an annual **ONLINE** application to the Department in the format specified and no later than 24th April 2020. No postal applications will be accepted.
- You must not import livestock manure even in processed form.**
- You must accept the terms and conditions contained herein before submitting your application.
- You shall adhere to all legislative requirements.
- You must have sufficient storage for all livestock manure, soiled water and silage effluent.
- You must participate in an approved environmental training course by 2021.**

DEFINITIONS

- (a) “Grassland farms” means holdings where 80% or more of the agricultural area available for manure application is grass.
- (b) “Grazing Livestock” means cattle (with the exclusion of veal calves), sheep, deer, goats and horses.
- (c) “Grass” means permanent grassland or temporary grassland (temporary implying leys of less than four years).
- (d) “Parcel” means an individual field or a group of fields, homogenous regarding cropping, soil type and fertiliser practices.
- (e) “Commonage” means land farmed in common, that typically encompasses hill/mountain land that is used for extensive grazing purposes.
- (f) “Rough Grazing” means land that is used for extensive grazing purposes, typically due to the presence of features which make mechanical operations difficult. For example out-cropping rock or scrub.

DETAILED CONDITIONS

Nutrient Management

1. The amount of livestock manure from grazing livestock applied to the land each year on grassland farms, including by the animals themselves, shall not exceed the amount of manure containing 250 kg N/ha, subject to the conditions laid down in the paragraphs below.
2. **Commonage and rough grazing will not be eligible** for the derogation allowance of 250 kg N/ha. Chemical fertiliser calculations on commonages/rough grazing will be limited to the ≤170 kg N/ha allowances.
3. The total nitrogen inputs shall not exceed the foreseeable nutrient demand of the considered crops, shall account for the supply from the soil, and shall not exceed the maximum fertiliser rates applicable to the farm, established in the Nitrates Action Programme.
4. Total nitrogen application shall be differentiated based on stocking rate and grassland productivity.
5. A Nutrient Management Plan (NMP) or fertiliser plan must be kept for the holding describing the crop rotation of the farmland and the planned application of manure and other fertilisers. This must be submitted online to the Department along with your application before April 24th

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2020 unless you submitted a plan to the Department in 2017, 2018 or 2019 that remains applicable for 2020.

6. Where a new or amended NMP is submitted in 2020, only a plan produced by the **Teagasc Online Nutrient Management Plan** programme or the **FarmEye Nutrient Management Plan** programme is acceptable.
7. A plan in relation to the farm shall be amended and submitted online no later than seven days following any changes in agricultural practice on the holding to ensure consistency between the plan and actual agricultural practice. All associated documentation e.g. soil analysis results, farm map, farmyard sketch should also be submitted online.
8. You must submit a **Farm Map** clearly indicating the location of individual fields and the soil sample locations so that these can be identified in the NMP
9. A reduction in the crude protein in concentrate feed for grazing livestock with a maximum of **16% crude protein** permissible between April 1st and September 15th, 2020. This information will be included in feed concentrate records farmers submit annually.
10. 2019 fertiliser accounts must be submitted ONLINE no later than 24th April 2020 for those who applied for nitrates derogation in 2019.
11. The application, the NMP, the fertiliser accounts and other supporting documentation may be subject to control by the competent authority.
12. The NMP shall include at least the following:
 - a) The crop rotation plan, which must specify the area (hectares) of parcels with grass and parcels with other crops including a map indicating the location of individual parcels;
 - b) The number of livestock, a description of the livestock housing and manure storage system, including the volume of manure storage available and a fully labelled farmyard sketch;
 - c) If a fully labelled farmyard sketch was submitted online in either 2017, 2018 or 2019 and it is still applicable in 2020 this will be sufficient.
 - d) A calculation of manure nitrogen and phosphorus produced on the holding;
 - e) The amount, type and characteristics of manure delivered outside the farm or to the farm;
 - f) The foreseeable nitrogen and phosphorus crop requirements for each parcel;
 - g) The results of **soil analysis** related to nitrogen and phosphorus soil status;
 - h) The nature of the fertilisers to be used;
 - i) A calculation of nitrogen and phosphorus from manure over each field;
 - j) A calculation of nitrogen and phosphorus application from chemical and other fertilisers for each field;

Soil testing and management

1. NMPs must be based on results of soil analysis dated after September 15th 2016.
2. To participate in the **P Build up** programme while in derogation soil analysis must comply with conditions re OM sampling as set out in Article 16 (3)(d) of the Regulation. You must attend a P Build up training by an approved FAS advisor.
3. Soil analysis shall be performed for the holding at least every four years for each homogeneous area of the holding, with regard to crop rotation and soil characteristics. At least one analysis per **five hectares** of land is required.

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4. **New applicants** who do not have soil analysis results must assume P Index 3 for 2020 but soil sample analysis, in respect of crop year 2021, must be available and the NMP amended accordingly and submitted online to the Department before **31st March 2021**.
5. **Short term rented** land which does not have current valid soil analysis results must assume P Index 4 for 2020.

Manure and slurry spreading

1. Livestock manure shall not be spread in the autumn i.e. from 1 August to 30 October before grass cultivation.
2. **From the 15th of April, 2020 all slurry applied must be by way of LESS equipment.** The total amount of slurry in m³ spread in 2019 must be entered on the on-line application. New applicants who did not use LESS equipment in 2019 should enter zero.
3. A derogation holding must have sufficient storage for all livestock manure produced during the closed period, soiled water and silage effluent produced on the holding.

Grassland management

1. Derogation farmers **must record through appropriate software technology the grass produced annually on the farm** from 2020 however if derogation farmers haven't the required skills to undertake this measure, they must undertake training in grassland management which must be completed by the end of 2021.
2. **Clover must be incorporated when reseeding swards** on derogation farms.
3. The adoption of a **farm scale liming programme** is required from 2020 on derogation farms. The details of the liming programme are to be provided in the NMP.
4. Temporary grassland shall be ploughed in spring (i.e. from 1 February to 30 April).
5. Ploughed grass on all soil types shall be followed immediately by a crop with high nitrogen demand.
6. Crop rotation shall not include leguminous or other plants fixing atmospheric nitrogen (except in the case of clover in grassland with less than 50% clover and other leguminous plants that are under sown with grass).

Biodiversity

1. All farmers in derogation must adopt **at least one measure** from the following list of actions from the All Island Pollinator Plan;
 - a) Leave at least one mature Whitethorn/Blackthorn tree within each hedgerow.
 - b) Hedgerows shall be maintained on a minimum 3-year cutting cycle.
 - c) Cut in rotation rather than all at once as this will ensure some areas of hedgerow on your farm will always flower.

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BY SUBMITTING AN APPLICATION FORM, YOU ARE DECLARING THAT:

- (A) YOU HAVE READ AND UNDERSTOOD THE ABOVE CONDITIONS,**
- (B) YOU MEET THE ELIGIBILITY CONDITIONS FOR A DEROGATION AND**
- (C) YOU WILL FARM IN ACCORDANCE WITH THE DETAILED CONDITIONS HEREIN IN THE CURRENT YEAR.**

LEGAL BASIS AND IMPORTANT INFORMATION

S.I. No 605 of 2017, European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2017, S.I. 65 of 2018, European Union (Good Agricultural Practice for the Protection of Waters) (Amendment) Regulations 2018 and SI 40 of 2020, European Union (Good Agricultural Practice for the Protection of Waters) (Amendment) Regulations 2020 S.I. No 31 of 2014, European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2014 continues to apply for soil test requirements only, in cases where soil samples taken prior to 01/01/2018 are still valid. Other related schemes have their own legal basis, as outlined under their own Terms and Conditions.

The Nitrates Derogation is available to grassland farms on an individual basis. The derogation applies only to grazing livestock on the holding. Farmers who wish to avail of the derogation will have to make an annual application and farm in accordance with a NMP and the conditions set out below.

The derogation allows the application of a higher amount of livestock manure than that provided for in the Nitrates Regulations (where the limit is 170kg N/ha/annum) subject to certain conditions. Successful applicants will be able to apply livestock manure in excess of 170kg/ha/annum in accordance with their NMP and up to a maximum of 250kg/ha/annum. If your stocking rate exceeds 250kg N/ha/annum, you must consider alternative arrangements such as exporting some of the livestock manure to ensure the stocking rate does not exceed 250kg N/ha/annum. Please note that derogation farmers must have sufficient storage for all livestock manure produced during the closed period, soiled water and silage effluent produced on the holding.

Nitrogen and Phosphorus Statements are available online each year at <http://www.agfood.ie> to farmers who, in the previous year (a) had cattle recorded on the Department's AIM system and (b) made application under the Basic Payment Scheme. The Statement sets out the quantities of nitrogen and phosphorus produced **by your cattle** during the previous year. This will give you a clear indication of your livestock manure nitrogen status. It will also help you to plan for the year ahead and to decide if you need to apply for a derogation.

Remember that the statement will show the nitrogen and phosphorus produced by **cattle only**, so if you have other livestock on your farm (such as sheep, pigs, poultry, horses, etc) you will need to work out the N and P that they produced and add this to the figure for cattle to get the total figure.

FARM ADVISORY SYSTEM

Under Article 13 of Council Regulation (EC) No. 1782/2003 each Member State is required to establish an approved Farm Advisory System (FAS) to advise farmers on land and farm management. The advice shall cover at least the Statutory Management Requirements (SMRs) and the Good Agricultural and Environmental Conditions (GAEC) referred to in Chapter 1 of the Regulation (Cross-compliance). Participation by farmers is voluntary.

Ireland has an advisory system in place and the full listing is available at: <https://www.agriculture.gov.ie/farmerschemespayments/farmadvisorysystem/>

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DATA PROTECTION NOTICE

The Department of Agriculture, Food and the Marine complies with all requirements under Data Protection and Freedom of Information legislation, more information on DAFM's policy can be found here: <https://www.agriculture.gov.ie/dataprotection/informationondataprotection/> and also in the Terms & Conditions for the Basic Payment Scheme 2020.

Information specific to the personal data being collected by Nitrates Division

The following data is specific information in relation to the personal data processed for the purposes of ensuring compliance with the Nitrates Regulations. The Department of Agriculture, Food & the Marine's general data protection policy should be read in conjunction with this document and can be viewed here: <https://www.agriculture.gov.ie/dataprotection/informationondataprotection/>

Specified purpose

The personal data sought from you, or previously furnished by you, is required for the purpose of complying with the Nitrates Regulations, audit, evaluation purposes, cross compliance controls, controls relating to the legislation underpinning cross compliance and all Rural Development measures, as required by Article 65 of Commission Implementing Regulation (EU) 809/2014. Also personal information may be released under the terms of the relevant Data Protection legislation in force and the Freedom of Information Act 2014. Failure to provide all the personal data required to facilitate the processing of the application; including data testing, under the scheme will result in DAFM being unable to further process the application. Failure to provide certain information which you are required to provide under the Terms and Conditions of the schemes may result in the necessity to repay monies already paid under the schemes, or in sanctions being applied under these schemes. You should consult the Terms & Conditions and Specification of the schemes in this regard.

Sanctions for failure to comply with the Nitrates Regulations are provided for in EU Regulations 1306/2013, 640/2014 and 809/2014 and are applied under the Terms and Conditions of the Direct Payment Schemes and Rural Development Programme measures.

The Department may also use data provided for the purposes of facilitating the processing of an application for participation in other related schemes operated by the Department of Agriculture, Food and the Marine or for the purposes of updating information on the relevant databases held by the Department in connection with these schemes. Each scheme has its own legal basis as outlined under their own Terms and Conditions.

Legal basis

The current legislation for Data Protection in Ireland is the Data Protection Act 1988 as amended by the 2003 Data Protection Act, The Data Protection Act 2018 and The General Data Protection Regulations (EU 2016/679).

Recipients

Information provided to Nitrates Division will be shared, with other divisions within the Department, for the purposes of processing other related scheme applications in a timely and efficient manner.

When you submit information to Nitrates Division, some of your personal data will be made available to other Government Departments/Agencies/Local Authorities, but only where there is a valid legal basis to do so. The purpose of this sharing of data is for audit, evaluation purposes, cross compliance controls, controls relating to the legislation underpinning cross compliance and all Rural Development measures, as required by Article 65 of Commission Implementing Regulation (EU) 809/2014. Also personal information may be released under the terms of the relevant Data Protection legislation in force and the Freedom of Information Act 2014.

Information will be shared within the Department for the purposes of monitoring and evaluating CAP as per the Regulations (EU Reg 1306/2013) in accordance with the Data Protection legislation in force. Personal data may be used for statistical, research and analysis purposes in some circumstances, but will only be done so in compliance with the Data Protection legislation in force. Data used for such purposes will be pseudonymised (masked) or anonymised, as appropriate, to protect the security and

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confidentiality of the data. The use of the data in this way may facilitate the Department in informing policy decisions into the future, which would benefit the Irish farmer and the Agriculture Sector.

The Department is also currently obliged by law to provide information concerning applicants in response to requests received from the Office of the Revenue Commissioners, An Garda Síochána, and other bodies, in accordance with Section 8 of the Data Protection Acts 1988 and 2003. The introduction of the General Data Protection Regulation in May 2018, and any further national Data Protection legislation, may change the requirements and the legislative basis for such requests.

As part of this requirement to comply with the Nitrates Regulations, you may be requested by the Department or relevant agents acting on its behalf, to supply data in relation to your participation to other Schemes, and facilitate on-farm inspections/assessments, where required for the purpose of assessment, verification, evaluation or research purposes as provided for under the Regulations (EU Reg 1306/2013). Not to supply such information may invalidate/cancel your application or incur sanctions in those schemes.

Transferred outside the EU

Information provided in relation to the Nitrates Regulations is not currently transmitted outside of the EU.

Retention Period

The data submitted in support of the application by the data subject will be retained by DAFM only as long as there is a business need to do so in line with the purposes for which it was collected.

After this time, it will be marked for destruction and will be destroyed in line with internal guidelines or guidelines for destruction received from the National Archives Office or associated permissions received from them.

Data provision being statutory or contractual obligation

The data provided for this purpose is being requested on a statutory basis under the Nitrates Regulations and Irish legislation (S.I. 605 of 2017, S.I. 65 of 2018 & S.I. 40 of 2020).

Automated Decision Making

Personal data provided to Nitrates Division will be processed automatically for the purpose of the efficient running of the scheme.

Automated decision making will also be used for the purposes of selecting participants for inspection in accordance with the regulations (EU Regulations 1306/2013 & 809/2014, S.I. 605 of 2017, S.I. 65 of 2018 & S.I. 40 of 2020).

Information from Third Party

Your personal data in relation to Nitrates records may be obtained from another party that submits information to Nitrates Division, this includes (but is not exhaustive) for example in a declaration submitted by them of a transaction regarding the movement of livestock manure, the temporary movement of animals or the short term rental of land in line with this Department's requirement to ensure compliance with the Nitrates Regulations and associated legislation. In circumstances where this Department did not gather your personal data you are still entitled to exercise your rights in relation to this personal data and the details on how to exercise individuals rights are detailed here <https://www.agriculture.gov.ie/dataprotection/informationondataprotection/>

Technical information on data collected:

Technical information on the cookies used on our Department's website is available [here](#).

NITRATES SECTION

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