

**Complements and clarifications of the information on burden on business and of the effects of some of the agricultural proposals presented in the NNR compilation of its members proposals for improvements of EU-legislation, “Proposals for improvements of EU legislation”, October 2015.**

**20. Definition of an active farmer**

**Legislation**

Article 9 (EU) No 1307/2013

**Burden on business**

The current definition of an active farmer increases the administrative costs for both farmers and authorities. The cost-effectiveness of the definition is questioned. It is very important that support from the CAP is targeted to active farmers. However, a negative list might not be the most appropriate way of targeting the support. First of all, the negative list might affect farmers that have diverse activities at the farm, for example an active farmer that also has some kind of sport activity at the farm.

Secondly, we already have rules on how to exclude ineligible land from support, such as golf courses or racing courses. The ongoing milk crisis reveals how important it is for farmers to have more than one source of income.

The rule forbids farmers from investments expanding their business into, for example, the sports- and recreational sector as well as the sector of real estate. Non-compliance also disqualifies the person from the most important farm subsidies, without which an average farm cannot be managed with profit. This is and should be a great cause of concern for the farmers and other stakeholders.

**Simplification proposal**

There is a need to thoroughly evaluate the cost-effectiveness of the definition. It should be considered if the negative list could be deleted or made voluntary for Member States to apply.

**Effects of the simplification proposal**

Time-saving  
Reduced costs  
Increased investments  
Reduced uncertainty

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## **25. Greening – simplify the crop cultivation period**

### **Legislation**

Article 40 (EU) No 639/2014 and the proposal on control regime for greening in Article 24 and 26.4 in (EU) No 809/2014.

### **Burden on business**

The requirement of proving and controlling the share of different crops within the most relevant cultivation period leads to reduced flexibility for farmers and a barrier for an effective control regime for authorities. The costs and worries that are expected due to the requirement are not proportionate to the rather limited positive effects of the crop diversification rule (effects according to COM's impact assessment). The cultivation period also differs widely between crops. The requirement does not make it possible to control all eligibility criteria at the same time which is why the on-the-spot-checks have to be made at several visits. This is burdensome for both farmers and administration.

### **Simplification proposal**

It should be possible to control crop diversification on the basis of the farmers' aid application and there must be some flexibility in what kind of evidence that is acceptable to prove the fulfilment of the requirement. Preferably the reference in Article 40 to a specific cultivation period should be deleted.

### **Effects of the simplification proposal**

Time-saving:	With less dates/periods the farmer has more flexibility to adjust to the current situation and can achieve a more effective and profitable production. Less "downtime" in the production, awaiting for certain dates to come or pass.
Reduced costs:	In effect less income forgone. Increased possibilities for the farmer to optimize the production or even to include an extra crop/harvest, after the main crop or between two crops.
Increased investments:	Increased profit would enable investment in maintenance and investments in more competitive technology for better profitability in the future.
Reduced uncertainty:	Greening and other payments to farmers consists of a lot of separate conditions. Mistakes resulting in non-compliance with one of these conditions may invoke considerable reductions of the payment, even if there were no profit in or harm caused by the non-compliance. Every decrease in conditions will bring a much welcomed reduction of the risk (income forgone) and uncertainty for the farmer.

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## **26. Greening – reduce the number of weighting factors**

### **Legislation**

Annex X (EU) No 1307/2013

### **Burden on business**

The many different weighting factors make a complex system for calculating the value and size of ecological focus areas. The difference in weighting between some EFAs are not possible to explain. Salix and catch crops/green cover have widely recognized positive impacts on the environment. By giving them the same weighting factor as nitrogen fixing crops the number of factors can be reduced and the unjustified difference between EFAs eliminated.

The complexity in calculating the weighting factors demands for the larger farms to consult expertise, which increases the costs. The system with different weighting factors increases the amount of regulation and complicates the application since most farmers tries to eliminate spatial errors.

### **Simplification proposal**

Reduce the number of weighting factors by increasing the factor for short rotation coppice and catch crops/green cover to 0,7.

### **Effects of the simplification proposal**

Time-saving:	Aligned weighting factors would increase the possibility for the farmer to directly estimate the impacts of different choices and changes, without consulting expert- or technical assistance.
Reduced costs:	Less time consulting experts or using technical assistance for the management of the farm, should be considered as a reduced cost in this context.
Increased investments:	More efficient farming enables better profitability which in many cases will result in investments in the farm.
Reduced uncertainty:	Less complicated calculations reduces the risk for errors and makes the impact of a non-compliance more obvious, which decreases the farmers' worries and uncertainty.

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## 27. Simplify the regulation on maintenance of permanent grassland

### Legislation

Article 45 (EU) No 1307/2013

### Burden on business

It's questionable if there actually was a general tendency that permanent grassland were plowed (resulting in sequestered carbon released), except in a few cases/regions. Sweden has experienced an opposite trend. There is a risk that the requirement to keep the share of permanent grasslands on national level actually leads to contra-productive behavior. Since the requirement were published, there has been reports of unnecessary plowing in order to avoid that land is classified as permanent grassland, in order to preserve the possibility to include the land in crop rotation and its market value as arable land. A leaseholder might also be liable for damages, if the land goes from being arable to permanent grassland, due to decreased market value of the land. Such effects mean that the rule is unpredictable and in worst case contra productive, and might lead to undue costs and worries for farmers. The protection should be focused on environmentally sensitive permanent grasslands, removing the general requirement to maintain the ratio of permanent grassland on individual farm/holding level.

### Simplification proposal

An assessment needs to be made whether the measure of keeping the share of trivial permanent grassland at a national level is needed and efficient. Consider abolishing the requirement on trivial permanent grassland, on the basis that environmentally sensitive permanent grassland is protected by the current regulation and other directives (birds/habitat).

### Effects of the simplification proposal

Time-saving:	Abolishment, especially of contra productive requirements, will save time for farmers by increased possibilities for a rational use of the land at their disposal. No time will be needed for preventive plowing.
Reduced costs	Less preventive plowing, more rational use of the land at their disposal and less risk for liabilities for leaseholders will reduce the costs for farmers.
Increased investments:	Better availability of land for other crops than grass, will stimulate investments, when there is a profitable market for products from arable land.
Reduced uncertainty:	The present requirement to preserve trivial permanent grassland is applicable retroactively, demanding that farmers restore arable land to grassland when the share drops below a certain limit. This creates uncertainty for the farmers.

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### **34. Administrative penalties area-related support**

#### **Legislation**

Article 19 and 28 (EU) No 640/2014

#### **Burden on business**

The current rules lacks a reasonable tolerance for negligible non-compliances (area related), for farms large enough to be competitive on the market. For example a farm of 400 hectares only has a tolerance of totally 0,5 % (2 hectares). A few minor mistakes on a farm of that size will soon add up to a total above the tolerance. Administrative sanctions often delays the payment of the aid, even if the non-compliance is small, generating cash flow problems for the farmer.

Smaller farms (< 67 hectares) has a 3 % tolerance, which is more reasonable.

Having two different thresholds for applying administrative penalties favors small farms and is unfavorable for farms of a competitive size, which is bad for the whole sector. To only apply the 3 %-threshold gives equality and is preferable.

#### **Simplification proposal**

Delete the 2 ha-threshold and keep the 3 %-threshold.

#### **Effects of the simplification proposal**

Time-saving:	A reasonable tolerance makes it unnecessary for the farmer to spend an unreasonable amount of time to avoid negligible non-compliances.
Reduced costs:	Time saved with a reasonable tolerance should be regarded as reduced costs in this context. Better cash flow should reduce the farmers' costs for interest.
Increased investments:	Better cash flow, decreased costs and more efficient time-management should allow for more investments.
Reduced uncertainty:	Less risk for delayed payments and administrative sanctions for negligible mistakes reduces the uncertainty for the farmer.

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### **35. Calculation, reductions and penalties of greening payment**

#### **Legislation**

Article 24-28 (EU) 640/2014

#### **Burden on business**

The current rules on calculation and reduction of the greening payment are disproportionate and difficult to understand for farmers. The actual reduction or sanction is very hard to relate to the actual non-compliance. Small errors may also lead to unreasonably large reductions. Furthermore, there are no rules on how to apply reductions when farmers are close to fulfilling the exemptions, e.g. the exemption for farmers with more than 75 % grassland. The greening payment is a new system and it will be difficult for farmers to implement it exactly correct in the beginning. Therefore, appropriate tolerances for when to apply reductions should be introduced. For example, it is not reasonable that a farmer that has 74 % grassland, hence being very close to being exempted from a greening requirement shall be punished as if he/she was required to do greening as a whole.

#### **Simplification proposal**

A more proportionate and transparent model is needed. There should be a separate set of rules for administrative penalties related to fulfilling the derogations. Introduction of suitable tolerances for when to apply reductions. Introduce a 3 year period, within which several non-compliances must have occurred in order to be regarded as repeated.

#### **Effects of the simplification proposal**

Time-saving:	A support system with many conditions and an obvious risk for considerable reductions/sanctions, even for small non-compliances, forces the farmers to invest unreasonable much time, effort and energy in ensuring compliance with minor details instead of using it for effective production. Also, in case of non-compliance, much effort goes into legal complaints when the reduction/sanction is considered to be out of proportion compared to the non-compliance.
Reduced costs:	Income forgone by the reduction/sanction should be regarded as a cost in this context. A more proportionate system for reductions/sanctions will reduce income forgone.
Increased investments:	More focus on issues that are important for efficient farming, and less costs, enables investments in maintenance and new technology for better profitability in the future.
Reduced uncertainty:	There is a lack of transparency and predictability due to complicated calculations, which makes the farmers uncertain and worried, taking their focus off efficient farming.

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### **38. One-year contracts for agri-environmental commitments**

#### **Legislation**

Regulation (EU) 1305/2013

#### **Burden on business**

Committing to long term contracts is challenging. One-year contracts lead to simplification for farmers as well as authorities. It is quite possible that more farmers will commit for a longer time in the end by repeated annual commitments, than from multiannual commitments, satisfied by the possibility to make changes the next year. We also estimate more farmers to join the scheme with shorter contracts.

Annual commitments seems especially suitable for schemes combining different objectives, for example pasture lands and stimulation of biodiversity. For a scheme like that it would be desirable to combine agri-environmental-climate payments with animal welfare payments on an annual basis.

#### **Simplification proposal**

One-year contracts for agri-environmental commitments.

#### **Effects of the simplification proposal**

Reduced costs: Better possibilities for the farmers to adjust the costs of commitments to the economic trends, realities and opportunities.

Increased investments: Increased investments should be an effect from better possibilities for the farmers to adjust the costs/profitability of commitments to the economic trends, realities and opportunities.

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