



Department  
for Environment  
Food & Rural Affairs



# Q&A for grassland derogations for 2018

September 2017

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# Grassland derogation

## Q1: What is the grassland derogation about?

Farmers can apply up to 170kg per hectare of nitrogen in livestock manure on their holding in a designated nitrate vulnerable zone (NVZ) in each calendar year. This includes manure deposited directly by grazing livestock and what you spread. This limit is the loading limit and applies as an average across your holding. The grassland derogation is a specific approval farmers can seek in order to apply additional nitrogen from livestock manure on their land if they are in a NVZ. The derogation increases the 170 kilograms per hectare per year limit to 250 kg nitrogen per hectare per year for grazing livestock manure only.

## Q2: Is the derogation available to all farmers?

**No** – to be eligible to apply you must ensure that at least 80% of the agricultural area of your farm is kept as grassland for the entirety of the year for which you are applying, and that you are able to meet the conditions of the derogation, including that the total amount of livestock manure that you apply on your farm does not exceed:

- 250 kg nitrogen per hectare per year from grazing livestock (cattle, sheep, deer, goats and horses), and
- 170 kg nitrogen per hectare per year from non-grazing livestock (veal-calves, pigs and poultry).

Information on derogation conditions is on the [GOV.UK Grassland derogations for livestock manure in nitrate vulnerable zones](#) page.

### Q3: What are the conditions of the derogation?

The conditions of the derogation are summarised below:

- At least 80% of the agricultural area of your farm must be grassland for the entirety of the year for which the derogation applies. A derogation is valid for one year only; you must apply each year;
- You must not apply more than 250kg of nitrogen per hectare per year from manure from 'grazing livestock' (cattle, sheep, deer and goats); and no more than 170 kg nitrogen per hectare per year from non-grazing livestock (veal calves, pigs and poultry);
- You must not spread livestock manure on grassland that you intend to cultivate in the autumn;
- You must only cultivate temporary grassland on sandy soils in the spring;
- If you plough up temporary grass you must follow it with a crop which has a high nitrogen requirement;
- Your crop rotations must not include leguminous or other plants that fix atmospheric nitrogen;
- You must carry out soil nitrogen and phosphorus analyses at least every four years;
- You must prepare a nitrogen and phosphate fertilisation plan for each field;
- You must keep a record of your calculation showing compliance with the livestock manure N farm limits; and
- You must keep detailed field and farm records and submit some of these records to the Environment Agency for inspection as directed.

Full details of conditions and how to comply are set out on the [GOV.UK Grassland derogations for livestock manure in nitrate vulnerable zones](#) page.

### Q4: How do I apply for a derogation?

To apply for a derogation you must telephone the Environment Agency on **03708 506 506** (Mon-Fri, 8am - 6pm) between **2 October** and **29 December 2017** (excluding bank holidays).

You will need to have certain relevant information to hand to provide over the phone. The information you need to provide in your application is set out in the "Apply for a grassland derogation" section of the [GOV.UK Grassland derogations for livestock manure in nitrate vulnerable zones](#) page.

## Q5: Why can I not apply for a derogation from 1 October?

During the 2018 application window we are only able to accept applications by phone. Lines are open during normal office hours (Monday - Friday, 8am - 6pm) between **Monday 2 October 2017 and Friday 29 December 2017**. Farmers and land managers applying for a grassland derogation for 2018 should telephone the Environment Agency on 03708 506 506.

## Q6: When will I know the outcome of my application?

Once we have considered your application and determined that you are eligible, we will ask you to sign and return a letter confirming your agreement to the conditions of the derogation. Your derogation will only be confirmed on receipt of this written assurance.

## Q7: If my application is successful, how long would my derogation last?

Applications made now are for the 2018 calendar year.

It is anticipated that a derogation, if granted, will last until the end of 2018, provided the conditions of the derogation are complied with. It is possible the European Commission, which has control over the use of derogations, may require it to end earlier. If so, we will endeavour to give those farmers affected as much notice as possible.

## Q8: Do I need to be aware of important dates in the year?

Yes the conditions of the derogation include a number of important dates, including when farm information must be recorded by, the closed periods when you must not plough grassland, and when fertilisation accounts must be sent to the Environment Agency by. Full details are on [GOV.UK Grassland derogations for livestock manure in nitrate vulnerable zones](#). Key dates are summarised in the table on the following page.

Application period	Derogation calendar year	Record farm information and complete risk map by	Submit Fertiliser Accounts by
2 Oct – 29 Dec 2017	2018	1 Mar 2018	30 Apr 2019
Closed periods when ploughing grassland is not permitted			
You must not plough temporary grassland on sandy soils between 1 July and 31 December	You must not plough any area of grass before 16 January if you've spread livestock manure on that area in the previous year between: 1 September and 31 December on sandy soils 15 October and 15 January on all other soils		

## Q9: Can my derogation application be refused?

Yes, it can be. Reasons your application may be refused or withdrawn include:

- you supply incomplete or inaccurate information;
- you apply after the application period closing date;
- it indicates your land's agricultural area is less than 80% grassland;
- it indicates your farm does not have enough land to comply with livestock manure nitrogen farm limits;
- you have breached a derogation condition in the preceding year; or
- following approval of your derogation a subsequent assessment demonstrates that a derogation for your farm would adversely affect a protected site under the Habitats Directive or the Wildlife and Countryside Act.

If your application is refused we will provide you with the reasons for this.

## Q10: Can I appeal if my derogation application is refused?

You must make your appeal within **30 days** of the refusal to an independent panel appointed by Defra. Details of how to make an appeal are on the [GOV.UK Grassland derogations for livestock manure in nitrate vulnerable zones](#) page.

## **Q11: Can my derogation be withdrawn after it has been approved?**

If your farm is in the vicinity of a Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar Wetland site, or Site of Special Scientific Interest (SSSI), your derogation application will be subject to additional assessments to ensure these sites remain protected. If the assessment demonstrates that a derogation for your farm would adversely affect a protected site under the Habitats Directive or the Wildlife and Countryside Act your derogation will be retrospectively overturned. It may also affect your future derogation applications.

## **Q12: What inspections and enforcement will there be?**

The Environment Agency is responsible for assessing compliance with and enforcing the derogation rules. You should keep your letter of approval for a derogation for reference in case of an inspection. Every year, it will visit at least 5% of farms with a derogation. If you do not comply with the derogation conditions, it may take enforcement action.

The Environment Agency would consider an exceedance of the farm manure nitrogen farm limit (170kg per hectare per year for non-grazing livestock and 250 kg per hectare per year for grazing livestock) after withdrawal of a derogation an offence. This may result in a formal caution or prosecution (which could result in fines). It is also likely that you would not be eligible for a derogation in the following year. It may also result in a deduction from your Basic Payment and/or any other rural payments you may receive.

## **Q13: Has the UK been granted a four-year derogation?**

The government's ability to offer derogations to farmers and land managers is subject to agreement with the European Commission every 4 years. To allow farmers and landowners to continue with their activities pending the Commission's decision, we are inviting applications for the 2018 derogation which will be subject to the same conditions as in previous years.



## **Q14:What happens to the derogation if it is not approved by the European Commission?**

If the Commission decides not to grant us a renewed derogation, it may expect us to withdraw individual derogations from farmers and landowners, if this occurs we would endeavour to give farmers as much notice as possible.

## **Q15:The rules come from the ‘Nitrates Directive’. What is that about?**

The purpose of the Nitrates Directive is to protect ground and surface waters across the EU from pollution by nitrates coming from agricultural activities. Nitrates are contained in manufactured fertilisers, silage<sup>1</sup>, slurry<sup>2</sup> and livestock manures. Nitrates from these sources can pollute ground and surface waters through rainwater runoff and leaching from farmland. An Action Programme of measures needed to minimise this pollution and are contained in the Nitrates Directive. The provisions in the Nitrates Directive have been incorporated into UK law as regards England through the Nitrate Pollution Prevention Regulations 2015.

## **Q16:Why are you following the EU Nitrates Directive when the UK is leaving the EU?**

On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

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<sup>1</sup> Helpdesk note: Silage is fermented grass used as livestock winter feed.

<sup>2</sup> Helpdesk note: Slurry is mixture of usually cow or pig manure and urine and wash water.

## **Q17: Why should we worry about controlling nitrate pollution?**

This is important to ensure we have healthy river systems, lakes and coastal waters which could otherwise be adversely affected by an excess of nitrates. This will, in turn, help provide clean drinking water, healthy fisheries, safe bathing waters, thriving biodiversity and an improved living environment.

Surface and ground waters are used as abstraction sources, and excessive nitrate levels would mean expensive treatment to remove nitrates to produce drinking quality water. It is less expensive to prevent nitrates from polluting the water in the first instance.

High levels of nitrate pollution can also result in excessive algal growth in lakes and saline estuarine and coastal waters in particular, damaging the ecology of affected water bodies by reducing biodiversity.

## **Q18: How does the Nitrates Directive control nitrates pollution?**

Farmers in NVZs are required to undertake certain measures designed to reduce nitrate loss from their farming activities. These measures are known as the action programme or NVZ rules. The measures include periods when slurry and manufactured fertilisers must not be put on the land to avoid the risk of run-off and serious pollution of watercourses. Farmers must also be able to store any slurry produced on farm until the time and conditions are right to use it. The action programme also requires farmers to plan and record all fertiliser (including manure) applications carefully to meet the needs of the crop.

## **Q19: Why is there a farm livestock manure limit of 170 kg nitrogen per ha per year?**

The farm livestock manure limit of 170 kg nitrogen per hectare per year is intended to limit the stocking rate of livestock on your holding to an environmentally sustainable level.

## Q20: Why is only grassland eligible for derogations?

The derogation in England has been allowed on farms where the majority of agricultural land is in grass on the basis that grass has a longer growing period and a high nitrogen demand. Evidence shows the additional nitrogen applied on derogated farms will be taken up by the grass. This, together with the additional land management conditions required by the derogation conditions (including the constraints on ploughing out derogated grassland for arable cropping) means the risk of nitrate leaching does not increase. Other crops, not being established throughout the year, are not able to use nitrogen in this way. Ploughing out grassland is known to release large quantities of nitrate over a prolonged period and increase sediment and phosphorus losses to water.

### End of document

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September 2017