

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



An Roinn Talmhaíochta,
Bia agus Mara
Department of Agriculture,
Food and the Marine

**2019 Nitrates Derogation
Terms and Conditions
Closing Date for Applications
31 March 2019**

Before completing the online application, please familiarise yourself with the terms and conditions of the Derogation as outlined below.

Derogation terms and conditions, and a template for Fertiliser Accounts can be found on the Department's website at www.agriculture.gov.ie, via the link:

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

2019 Nitrates Derogation applications can only be submitted online.

PLEASE NOTE THAT THE CLOSING DATE FOR ONLINE APPLICATIONS IS 31st MARCH 2019.

Reminder: 2018 Fertiliser Accounts must also be submitted ONLINE by 31st MARCH 2019 for those who applied for a Derogation in 2018.

The Fertiliser Plan should also be submitted with the Nitrates Derogation application online, unless you have submitted a Fertiliser Plan to the Department in 2016 or 2017 or 2018.

For a Nitrates Derogation Application to be valid, all terms and conditions of the Derogation must be adhered to:

- You must make an annual online application to the Department in the format specified.
- You must accept the terms and conditions before submitting your application.
- You must be farming a holding that is at least 80% grass.
- You must have grazing livestock – a Derogation is only available in respect of grazing livestock.
- Nitrates Derogation applicants **cannot import livestock manure** onto their holding
- You must have a Fertiliser Plan in place for your holding by 1st March. This plan must be submitted to the Department along with your application unless you have submitted a Fertiliser Plan to the Department in 2016 or 2017 or 2018.
- Where a new or amended Fertiliser Plan is submitted in 2019, **only** a plan produced by the **Teagasc Online Nutrient Management Plan** programme or **FarmEye Nutrient Management Plan** programme is acceptable.
- Fertiliser plans must be based on results of soil analysis dated after 15th September 2015.
- You must submit a Farm Map indicating location of individual fields and corresponding soil samples i.e. a soils laboratory report, unless submitted online in 2016 or 2017 or 2018.
- You must submit a fully labelled Farmyard Sketch showing manure storage facilities and livestock housing, unless submitted online in either 2016, 2017 or 2018.
- You must keep Fertiliser Accounts. After the end of each calendar year, your Fertiliser Accounts must be submitted ONLINE no later than 31st March of the following year.
- New applicants** who do not have soil analysis results must assume Index 3 for 2019 but soil sample analysis, in respect of crop year 2020, must be available and the fertiliser plan amended accordingly and submitted online to the Department before **31st March 2020**.
- Where fertiliser plans are subsequently amended, and these amendments require either new soil analysis, amended Farm Map and/or amended Farmyard Sketch, all such amended documentation should be submitted online within 7 days.

**NITRATES DEROGATION
TERMS AND CONDITIONS**

Failure to comply with these Terms and Conditions will result in the rejection of the Nitrates Derogation for 2019 and will be taken into consideration when deciding on any subsequent application in 2020.

Cross Compliance breaches, including exceeding the 250 kg limit, will be notified to Basic Payment Scheme (BPS) and are subject to the BPS penalty schedule.

IMPORTANT INFORMATION: 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 fertiliser plan 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 of N per hectare per year from livestock manure) subject to certain conditions. Successful applicants will be able to apply livestock manure in excess of 170kg/ha in accordance with their fertiliser plan and up to a maximum of 250kg/ha per year. If your stocking rate exceeds 250kg/ha, you must consider alternative arrangements such as exporting some of the livestock manure to ensure the stocking rate does not exceed 250kg/ha. Please note that derogation farmers must have sufficient storage for all livestock manure and soiled water produced on the farm.

1. 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.

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 of 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 – a Derogation is only available in respect of grazing livestock.
- You must make an annual **ONLINE** application to the Department in the format specified and by the specified date. No postal applications will be accepted.
- You must not import livestock manure even in processed form.**
- You must undertake in writing to fulfil the conditions set out herein.
- You shall adhere to all legislative requirements
- You must have sufficient storage for all livestock manure and soiled water

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.

DETAILED CONDITIONS:

Application of manure and other fertilisers

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 nitrogen per hectare, subject to the conditions laid down in paragraphs 2 to 9.
2. The total nitrogen inputs shall not exceed the foreseeable nutrient demand of the considered crops, shall take into account the supply from the soil, and shall not exceed the maximum fertiliser rates applicable to the farm, established in the Nitrates Action Programme. Total nitrogen application shall be differentiated on the basis of stocking rate and grassland productivity.
3. A fertiliser plan shall be kept for the holding describing the crop rotation of the farmland and the planned application of manure and other fertilisers. It shall be available on the farm by 1st March for each calendar year and 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 housing and storage system, including the volume of manure storage available **and a farmyard sketch**;
 - c) a calculation of manure nitrogen and phosphorus produced on the holding;
 - d) the amount, type and characteristics of manure delivered outside the farm or to the farm;
 - e) the foreseeable nitrogen and phosphorus crop requirements for each parcel;
 - f) the results of soil analysis related to nitrogen and phosphorus soil status if available;
 - g) the nature of the fertilisers to be used
 - h) a calculation of nitrogen and phosphorus from manure over each field.
 - i) a calculation of nitrogen and phosphorus application from chemical and other fertilisers over each field

A plan in relation to the farm shall be revised no later than seven days following any changes in agricultural practice on the holding to ensure consistency between the plan and actual agricultural practice.
4. Fertiliser accounts, including information related to management of nitrogen and phosphorus inputs and management of soiled water, shall be kept in relation to the farm and **shall be submitted ONLINE no later than 31st March 2020.**
5. The application, the fertiliser plan and the fertiliser accounts may be subject to control by the competent authority.

6. Phosphorus analysis in soil 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 shall be required.
7. Livestock manure shall not be spread in the autumn i.e. from 1 August to 30 October before grass cultivation.
8. 50% of all slurry produced on a derogation farm must be applied by the 15th June annually. After this date slurry can only be applied using Low Emission Slurry Spreading (LESS) equipment.
9. A derogation holding must have sufficient storage for all livestock manure and soiled water produced on the holding.

Land management

- a) Eighty (80)% or more of the area available for manure application on farms shall be cultivated with grass.
- b) Temporary grassland shall be ploughed in spring (i.e. from 1 February to 30 April);
- c) Ploughed grass on all soil types shall be followed immediately by a crop with high nitrogen demand, and
- d) 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 undersown with grass).

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.

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/>

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/> and also in the Terms & Conditions for the Basic Payment Scheme 2019 at : <https://www.agriculture.gov.ie/farmerschemespayments/>

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/>

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:

S.I. No 605 of 2017, European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2017 and S.I. 65 of 2018, European Union (Good Agricultural Practice for the Protection of Waters) (Amendment) Regulations 2018. Other related schemes have their own legal basis, as outlined under their own Terms and Conditions.

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 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.

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. 607 of 2017 & S.I. 65 of 2018).

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/>

Technical information on data collected:

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

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