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Our Ref:
Your Ref:
Date: 29 May 2014

Dear Stella

COMMITTEE MEETING 13 MAY 2014

Your letter of 14 May refers.

Correspondence from the Committee for Enterprise, Trade and Investment relating to the 'Impact of Ground-Based Solar PV' on Single Farm Payments

The Committee asked the Department to comment on a letter from the Ulster Farmers' Union (UFU). This letter sets out the UFU views in relation to the impact of ground-based solar PV on Single Farm Payment (SFP) in Northern Ireland and follows on from DARD's response to the ETI Committee on this matter.

In this, DARD had advised that "As solar panels erected in a field may impede the agricultural activity that could be undertaken on that land, any area where agricultural activity is no longer predominant would be considered ineligible. This would include both the area occupied by the solar panels and any other area which may be fenced off (for example, to protect the panels)."

The UFU consider that this reply is ambiguous, incorrect and contradicts the advice that was contained in the Guide on how to complete your 2013 Single Application (SAF) and Field Data Sheet (FDS).

The rules governing SFP are set down in EU legislation and this (Regulation EC 73/2009, Article 34 (2)(a) - extract attached at Annex A) is clear that in order to be considered

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eligible for Single Farm Payment (SFP) and other area based schemes, land that is used also for non-agricultural activities, has to be predominantly used for agricultural activities.

Annex C of the Guide to Land Eligibility booklet updated 2013 (<http://www.dardni.gov.uk/guide-to-land-eligibility-updated-2013.pdf>), provides examples of the types of non agricultural activities that may take place on agricultural land and the impact of these activities on eligibility for SFP.

While this does not specifically refer to solar panels, DARD considers that in most cases, the erection of solar panels in fields would fall under Category C – activities inconsistent with land remaining in agricultural use. If the primary purpose of the field or part of the field is a solar farm, then it is unlikely the land could be considered eligible, even if the land could continue to be maintained in good agricultural and environmental condition by sheep or other animals grazing around the panels.

In order to remain eligible, the predominant activity on the field would have to be grazing and sheep or other animals must be able to graze the land the land around the solar panels unhindered, in the same way as they would in the rest of the field. This may be possible if there are a limited number of solar panels, but would be unlikely if a large number of solar panels are erected.

DARD has to carry out on-the-spot checks on 5% of SFP claims received each year. If, during one of these checks, DARD identifies land where solar panels have been erected, these will be considered on a case-by case basis. However, the starting point will always be whether the predominant activity on the land is agricultural. If it is not, then the land will be considered ineligible and, if this has been claimed, recoveries and penalties may apply.

It is also worth noting that Articles 32 (2)(a) and 32 (3)(a) of Regulation EU 1307/2013 (extracts attached at Annex B) that will apply to the new Basic Payment Scheme to be introduced in 2015 under CAP Reform. Article 32 (2)(a) mirrors the existing requirement in 73/2009. Article 32 (3)(a) provides some criteria to help assess whether land is predominantly used for agricultural activities. These Articles reinforce DARD's view that it is unlikely that agricultural activity could be exercised unhampered on land where a high number of solar panels have been erected.

I would be grateful if you would bring this to the attention of the Committee.

Yours sincerely



Paul Mills
Departmental Assembly Liaison Officer

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