

Appendix A – Analysis of Late Payment Penalties

Pillar 1 Late Payment Penalties

Background information

The EU regulations require Member states to achieve at least 95% of the total payments due for each **Pillar 1 scheme** to be paid out by 30th June . Where expenditure, after this deadline, is less than 5% of the payments made by this date then no late payment penalties will apply.

However, the SG successfully negotiated a derogation with the EC to extend until 15th October 2016 the date by which the whole of the UK may make Pillar 1 payments without incurring any penalties. So there are **no late payment penalties payable for the period 1st July to 15th October 2016.**

The Commission will make a determination if there are any late payment penalties for the periods after 15th October 2016 as follows;-

- a) 16th October 2016 to 31 July 2017-will 'normally' be determined in November 2017
- b) 31 July 2017 to 15th October 2017 will be determined as part of the accounts clearance process – which can vary but the earliest would be June 2018.

Financial Exposure

The following are **estimates** of the Pillar 1 payments still to be made by the Scottish Government as at 15th October 2016 - which **will be subject to late payment penalties.**

Scottish Government outstanding payments at 15th October 2016

Pillar 1 Scheme	£m
BPS	0.2
Greening	0.1
Voluntary Coupled Support	0.7
Total	1.0

This **excludes** appeals and subsequent adjustments which may result in further payments being made – **this is normal practice.** The appeals process has still to commence and it can be a lengthy process with final decisions made in the courts. However, it is not possible to say what late payment penalties might arise until all of these processes are completed especially as late payment penalties are determined for the whole of UK (as a member state).

Under a historical Memorandum of Understanding penalties were previously apportioned between those UK administration which do not meet the UK target at 30 June 2016.

Whilst detailed estimates of outstanding liabilities across the 4 Paying Agencies have not yet been provided it is clear that Scotland did not meet the June target and **it is highly likely that England did not either.** A meeting between officials from each of the Paying Agencies is planned for later this month to assess the position. Advice from Wales and Northern Ireland are the amounts outstanding are relatively small.

Range of exposure

If we **assume any further payments and the appeals** process for Scottish producers will **not generate liabilities in excess of €3m** then we estimate the range of late payment penalties the SG may be liable for is between **€4m and €6m.**

- 1) Where Scotland is the **only one Paying Agency** not to meet the June target and picks up other late payments (possible but **unlikely**)

Upper Limit €6m (subject to appeals)

This includes a sum of €2m for late payments from other paying Agencies.

