

## FARMING AND PROPERTY BULLETIN – MAY 2019

### ***Agricultural Tenancy Reform***

- Defra have recently launched consultations seeking views on reforms to agricultural tenancy legislation. The proposals aim to assist Tenants and Landlords adapt to change, access new schemes and improve productivity. Based on Tenancy Reform Group recommendations, the changes are primarily designed to make 1986 Agricultural Holdings Act and Farm Business Tenancy lettings more suited to a modern farming sector whilst ensuring that the familiar existing landscape of tenancy legislation remains broadly intact.

The key proposals are:

- i. Allowing AHA Tenants who wish to retire to assign their tenancies to a third party. An assigned tenancy would be subject to an open-market rent and terminate after 25 years. The Landlord could prevent the assignment by buying out the tenancy themselves;
  - ii. Changing the rules of succession under AHA tenancies. The minimum retirement age of 65 would be removed so that Tenants can retire earlier. A maximum retirement age of 5 years after the state pension age might also be considered;
  - iii. Changing the succession provisions under AHA tenancies so that the 'commercial unit test' (which prevents those already occupying a commercial farm from succeeding) could be removed. The 'suitability test' will also see an updating to a 'business competence test';
  - iv. A potential extension of the categories of family members who are eligible for succession right;
  - v. A new dispute resolution mechanism that can vary clauses in AHA tenancies that present a barrier to business development (an example of this are clauses requiring the Landlords permission to erect buildings);
  - vi. Giving Landlords incentives to let FBTs for 10 years or more. This could involve shorter and more certain notice-to-quit procedures in certain circumstances.
- The deadline for the two consultations which are currently running has been set for 2<sup>nd</sup> July 2019. The full consultation can be found at [consult.defra.gov.uk](http://consult.defra.gov.uk).

### ***BPS - Bridging Payments***

- The RPA has confirmed that eligible claimants started receiving Bridging payments from 12<sup>th</sup> April. These payments are made to those eligible claimants who had yet to receive their 2018 Basic Payment by 31<sup>st</sup> March or whose 2018 Countryside Stewardship advance payments are unpaid.

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- Whilst more than 99% of BPS 2018 claims and 95% of Countryside Stewardship advance payments have now been processed, the remaining eligible claimants will receive the payment for 75% of the estimated value of their claim. This is intended to help with farm business cash flow whilst the remaining amount on their claim is processed.

### ***BPS – Amending Applications***

- The BPS 2019 application window closed on 15<sup>h</sup> May. However, should you need to amend your application there are still options available. Some amendments can be made up to 31<sup>st</sup> May without a penalty if the original 2019 application was submitted prior to the 15<sup>th</sup> May deadline. These changes include:
  - i. Adding a land parcel
  - ii. Increasing the eligible area of a land parcel;
  - iii. Increasing the area being used to activate entitlements for claim;
  - iv. Changing the land use of a parcel.
- The above changes can also be made from 1<sup>st</sup> June until midnight on 10<sup>th</sup> June; however, changes during this period will attract a penalty.
- Should you become aware of an error on your claim outside of these timescales, you can inform the RPA at any time using the 'notified error' provisions. These cannot result in an increase in value of the 2019 BPS claim however. The 'obvious error' provision allows the RPA to correct a clear omission or mistake on a 2019 BPS application without a penalty being attracted if the error is 'obvious from a simple check of the application'.

### ***General Licenses to Control Birds***

- On 25<sup>th</sup> April, Natural England revoked the three General Licenses which allow for the control of certain wild birds including crows, magpies and pigeons amongst others. This meant that as from 25<sup>th</sup> April, anyone found shooting these birds could be committing a criminal offence.
- Whilst new General Licenses are in the process of being rolled out, they are understood to be more onerous and will therefore need to be consulted prior to any activity. If the circumstances in which a Landowner wishes to act are not covered by these new Licenses, an individual license will currently need to be applied for.
- Various organisations including the British Association for Shooting and Conservation, the Country Land and Business Association, the Countryside Alliance, the Game and Wildlife Conservation Trust and the National Farmers' Union sent a joint letter on 14<sup>th</sup> May to the Secretary of State for Environment, Food and Rural Affairs to instigate a number of key changes. The letter highlights that all the organisations have submitted evidence to Defra's current review and that the replacement licenses that have been recently issued so far are not fit for purpose.