

FARMING AND PROPERTY BULLETIN – JUNE 2021

Lump Sum Payments

- Defra have finally released their consultation on Lump Sum payments. This consultation looks to obtain views on who should be eligible for the Lump Sum payments and how these and Delinked payments should be calculated.
- Lump Sum payments will be offered to those who are looking to exit the industry. It is the intention that there will be a one-off application window in 2022, and proposed conditions and eligibility rules include the following:
 - i. Only those who claim BPS will be eligible. To prevent recent entrants from leaving with a lump sum, it is being proposed that applicants must have made their first BPS claim in 2015 or earlier.
 - ii. The BPS applicant would have to give up their land in England. An owner/occupier would have to sell, rent or transfer their land by gift. The current proposal is if an owner/occupier decides to rent out their land, this must be via an FBT and for a minimum of 5 years. A tenant must surrender their tenancy, regardless of whether it is an FBT or an AHA. AHA tenants will also be eligible if they pass on their tenancy under a succession.
 - iii. Those receiving a Lump Sum would be able to retain occupation of their residential and commercial property and up to 5% or 5 hectares (whichever is smaller) of their land.
 - iv. It will not be possible for applicants to keep some entitlements and take a partial Lump Sum payment.
 - v. If a Lump Sum payment is received, the business cannot claim any further direct payments. This includes any Directors or a Limited Company and all Partners of a Partnership. If any recipient enters into a new land management agreement (such as Countryside Stewardship or ELM) during the Agricultural Transition, the Lump Sum payment will have to be repaid.
 - vi. The tax treatment of Lump Sum payments is being discussed with HMRC and guidance is expected shortly.
- Defra expects to be able to fund all eligible applications, meaning it will not be a competitive scheme.
- The amount a claimant will receive will be *Lump Sum Reference Amount* x 2.35. This multiplier means that the payment will be approximately equivalent to the amount a farmer could have received in Direct Payments for 2022 to 2027 under the phasing out of the BPS. The Reference Amount will be the average value (if more than one year is used) of BPS received before any penalties or progressive reductions have been applied in a Reference Period. The current Reference Period that has been proposed is a three-year average based on 2018, 2019 and 2020 BPS years.
- There is also a proposed payment cap of £100,000, meaning that a Reference Amount of up to £42,500 would not be affected by the cap.
- Full rules for the Lump Sum payments are expected to be released by October 2021.



Delinked Payments

- The same consultation discussed above also covers the Delinking of payments. Delinked payments are expected to be introduced in 2024 and will mean businesses can reduce the area they farm or even cease farming altogether, and they will still receive payments for the rest of the Transition Period.
- Delinked Payments will be made to those who were receiving a BPS payment in a Reference Period as well as in 2023 (if the Reference Period is earlier than this). The actual payments will be calculated for each year from 2024 to 2027 based on the BPS payments made to the applicant in the Reference Period less the progressive reductions.

- Defra is currently asking for views on the Reference Period but is currently proposing the average of 2018 to 2020 (same as for the Lump Sum payment).
- The consultation for both Lump Sum Payments and Delinked Payments is open from 19th May until 11th August, with the full consultation document being available online via Defra's website.

Environment Bill



- The Environment Bill returned to Parliament on 26th May for the report stage in the House of Commons. This was the last chance for MPs to debate changes to the Bill ahead of it being sent to the House of Lords. Up until now, the legislation's passage through Parliament has been repeatedly delayed since it was first introduced in January 2020.
- The Bill has a wide scope and introduces many new policies, including biodiversity net gain, conservation covenants and the creation of a new regulator, the Office for Environmental Protection (OEP). In particular, the Bill has been cited as helping to drive forward the natural capital agenda, through introducing a system of long-term targets and environmental improvement plans which should help give businesses the certainty to plan for the future. The Bill also introduces Local Nature Recovery Strategies (LNRS), which will be prepared by Local Authorities across the country. These strategies will be used to guide funding, including from the ELM schemes.
- Critics, however, have noted that there are still areas requiring attention. Various amendments were voted down in May, including those that would strengthen protection for wildlife habitats as well as those that would require immediate air pollution targets.
- The Bill is currently being scrutinised by a House of Lords committee. Further amendments will be proposed at its third Lords reading where peers will have the opportunity to vote on the bill. The Bill is expected to receive Royal Assent in Autumn 2021.

