

The Agricultural Bill

And the Future of UK Farm Payments after Brexit

The long awaited and recently released Agricultural Bill covered a lot of ground, with several initial declarations from the Government about their intentions for the future of agriculture in the UK post-Brexit, which is to be welcomed as it finally offers UK farmers the certainty they need to plan for the short and medium term. **The Government has already committed to guaranteeing that the funding available for Direct Payments for 2020 will continue at the same levels as in 2019** with the Direct Payment to Farmers (Legislative Continuity) Bill introduced to Parliament already to give certainty to farmers. They have also announced a commitment to maintaining the current level of total funding available each year throughout this Parliament, with changes introduced over an initial seven-year period. The seven-year agricultural transition period will see a phasing in of new UK substitute payment mechanisms to replace the current BPS, issued by the EU, in favour of rewarding the provision of public goods, which will change the distribution of this total amount.

The Government will now have the powers to modify any hangover regulations from the previous CAP scheme (as it remains the default for 2020) using their power to reduce the bureaucratic burden on the UK, change elements of the cross-compliance regime, inspection regime or penalties to beneficiaries as they choose. Both the Government and the NFU have welcomed this commitment as providing long term security and clarity for farmers seeking to plan for the future. However, it is also important to note that **this commitment to maintaining this level of funding is only for this Parliament, which will be a maximum of five years, while their stated transition period lasts for seven years** (and the Secretary of State will have the power to extend that period if they deem it necessary) which could mean reduced funding overall in the last two years of this period. There had previously been significant progress made on the Environmental Land Management Schemes intended to eventually replace the EU model, but Parliament was prorogued it killed the progress on all bills in Parliament at the time. The subsequent election results, with a stronger manifesto, return of the new Defra secretary in Theresa Villiers, as well as the removal of the threat of a No Deal Brexit, has meant that simply returning the ELMS Bill is not a formality, as there will be changes to it.

From 2020 onwards, funding will be closely monitored and reviewed annually as the Government begins to phase in their new plan for rural payments, which will be based on the environmental contribution of the land rather than simply the amount of land owned. The shift between payment systems will be phased in over seven years beginning in 2021, with the intention to **use the agriculture transition period to support British farmers and help champion British produce**. Funding will continue as before under the Basic Payments System until then, and even after changing the allocation of payments over the seven-year transition period the overall amount of money distributed will remain the same. Beginning in the first year of Basic Payments System cuts, which will be 2021, the biggest reductions will be applied to the higher payment bands. The reductions will be similar to other tax brackets, with cuts made in bands as follows: up to £30k per year, 5% cut in the grant; between £30k-£50k, 10% cut; £50k £150k, 20%; and £150k or more, there will be 25% of the current payment level cut.

These commitments so far only apply to England, though, with Wales and Northern Ireland exploring the possibility of continuing the current BPS system beyond 2020 with an announcement on the funding plans for the devolved regions to follow the comprehensive spending review due later this year. After the initial seven-year transition period, which will be covered by a single budget, **the Government aims to continue giving multi-year budgets for a minimum of 5 years** rather than annual ones, in an effort to give farmers greater certainty in the short and medium-term.



The Agricultural Bill

And the Future of UK Farm Payments after Brexit

Government contributions will now shift towards a more “pragmatic” rather than “pure” assessment, rewarding landowners who use their land for public goods, with investments in the foundations of food production through several major focuses: improving soil health and quality, which will now be recognised as a public good in its own right; maintaining or simplifying fertilisation regulations as technology advances; tailoring regulations so organic produce can continue to be traded globally; flood relief; improving water and air quality; improving wildlife biodiversity or animal welfare standards above the legal baseline; and increasing public countryside access. **Land used to further any of these causes will now be financially rewarded, rather than land owned**, in an attempt to reward for production, use and contribution of land rather than just the volume claimed to be farmed.

These aims make it clear the Government intends to engage farmers in taking action on climate change and to reward those who do. **Producers and growers will also be organised into Producer Organisations** to promote collaborative working, offering exemptions for recognised groups from certain elements of competition law. There will also be regular reports and focuses on food security both locally and globally, with 5 year assessments monitoring the risk to the UK food market of liberalisation in standards brought on by post-Brexit trade deals, as well as increased financial assistance for farmers and reports on the success of schemes, and better data collection regarding identification, movements and health of animals.

The seven-year transition period is intended to allow landowners who have not previously prioritised environmental or public goods when allocating their land to understand how the new schemes can work best for their farm then begin to make changes to benefit from the new payment system. The Bill includes **the power to make grants available to help farmers invest in new technology, equipment, infrastructure or innovation to reduce costs, increase efficiency and sustainability and manage the environment more sustainably**. This commitment, along with the intention to delink payments from the requirement to farm the land as it currently exists in EU law, will allow farmers the opportunity to diversify their business so they can benefit from the new incentives without a single shock change.

There are also consultations planned on **a scheme to offer a one-off lump sum payment instead of further direct payments**, should farmers prefer that option, to assist with investment or diversification costs more immediately. The main intention of offering a lump sum is to assist older farmers to retire, therefore opening up opportunities for new entrants into the industry, reducing the dependency and uncertainty of tenant farming. Tenant farming has received further attention in the Bill, with legislation included to allow tenant farmers to lodge objections if a landlord refuses to allow them access to the ELMS as they are introduced, giving tenant farmers more confidence and independence to plan for longer periods. The previous Defra Secretary Michael Gove had planned to deliver tenancy reform legislation in parallel with the agriculture Bill, but Defra have now put further “more controversial” changes on hold until a separate piece of legislation is introduced later.

Further objectives of the Bill include improving transparency and fairness in the supply chain by **giving farmers better access to data**, so they can make more informed, market-driven decisions in negotiations over prices and get a fairer slice of the cake, encouraging sustainable production while feeding the nation. The **renewed commitment to prioritising British grown produce** will be a prominent factor too, but not at the expense of supermarket stock levels, where cost of living focuses mean cheap food will need to be available all year round. The Government has, though, said they are prepared to intervene in the market under “exceptional” conditions to protect British farmers, but this is believed to be primarily aimed at compensating for disease outbreaks or extreme weather events causing shortages of stock and/or significant effects on prices. Intervention in this form has been defined as a loan, grant, guarantee or “any other form” including “intervention buying” or “private storage aid”.

The Agricultural Bill

And the Future of UK Farm Payments after Brexit

The current **Countryside Stewardship schemes look set to continue** to be available in their current form for the first few years of the agricultural transition period and, for a time, will overlap with the planned new Environmental Land Management Schemes, when they are eventually announced. Countryside Stewardship system offers competitive financial incentives to farmers to improve and maintain the environment under the guise of “Mid-Tier”, “Higher Tier” and “Wildlife Offers”. The system aims to benefit Wildlife and Nature, Pollinators, Water/Flooding and Woodland, with priorities depending on the local area and scoring higher for their contribution to that area. All three are multi-year agreements, with Higher and Mid-Tier options also including standalone capital items. Higher Tier awards are more bespoke management solutions for the most environmentally important sites, Mid-Tier awards aid widespread environmental issues in the wider countryside, and Wildlife Offers create food or habitats for wildlife. Organic conversion, organic maintenance options, the four Wildlife Offers and capital grants for Woodland Management Plans and Woodland Tree Health are not scored, so will be awarded differently to the Mid- and Higher Tier schemes.

The ELM Scheme is the centrepiece of the Agriculture Bill, with pilots already underway with a view to a 2024 launch proper. As opposed to the BPS, the ELMS is not a subsidy, but an **exchange of public money in return for providing environmental benefits** as listed in paragraph three – namely clean air, reductions in pollution and environmental hazards, thriving plants and wildlife, clean water, enhanced landscapes and other measures to minimise the effects of climate change. The renewed commitment to food security in the UK is another restriction that the ELMS will have to consider, with any changes to farm support needing to have no impact on British food production. Despite **food not being considered a “public good”** so ineligible for direct funding, production of food is considered a “public priority” by the Government which they will be obliged to consider when planning the ELMS.

Despite this initial briefing, supplementary legislation will be required in a variety of areas to honour the promises and commitments made here. Further detail about the ELMS will be released in a policy document accompanying the Agriculture Bill, due to be released before the Bill reaches the committee stage, to allow farm groups to gain further information with which to lobby for further inclusions or modifications. While it will not be an inclusive manual of commitments to specific numbers, it will provide more information on productivity proposals, grants, data, research and development, and methods to tackle unfair trading practices.