

AGRICULTURAL SUSTAINABILITY

The Future of Farming

INTRODUCTION

The impact of the global response to coronavirus on farming has added another angle to the already complicated debate around the future of farming in the UK. The systemic issues facing agriculture – including climate change, food security, biodiversity, renewable energy, imports and exports, and access to land – remain, but need to be assessed in a fresh context. Empty supermarket shelves in March and the spectre of shortages underlined the importance of food security and robust supply chains. Brexit raises questions about the ease of exporting and there are concerns that UK farmers will be undercut by lower-standard imports in the pursuit of trade deals. Nonetheless, the crisis provides an opportunity to review priorities, and one positive consequence of the lockdown appears to be the greater appreciation for the source of food and access to nature.

The measures introduced by the Agriculture Bill, which is currently progressing through Parliament, and the commitment for the UK to reach net zero greenhouse emissions by 2050 are likely to change farming radically.

“FIRST-CLASS AGRICULTURE AND ESTATES TEAM THAT DEALS WITH QUERIES PROMPTLY AND EFFICIENTLY”

Legal 500 UK 2019



This article introduces four topics that we believe will shape the future of farming: who farms the land, tax and subsidies, smart farming and “rewilding”.

WHO FARMS THE LAND?

The standard agricultural tenancy is a Farm Business Tenancy (FBT). However, in its current form an FBT does not seem well adapted to farming’s expected evolution. Specifically, the definition of ‘agriculture’ under an FBT includes only traditional farming activities, such as grazing animals or growing crops. It does not cover many of the “public goods” that the Agriculture Bill is designed to encourage like carbon sequestration, managing land for bio-diversity or providing public access. The draft Agriculture Bill does not update this definition but it is hoped that future legislation will do so to reflect the likely

changes in farming practices to deliver public goods.

Another change to look out for is the squeeze on traditional family and tenant farms, a trend that we are already seeing but that is likely to be exacerbated by reduced subsidies, further emphasis on economies of scale, and mechanisation. It is not hard to envisage a future where the ownership of agricultural land is concentrated in fewer hands, and for people not involved in farming to own the farmhouses and buildings that form the core of traditional holdings – perhaps by professionals looking to have an attractive home office following their experience during lockdown. In legal terms, this may take the form of landlords bringing tenancies to an end where they can or smaller holdings combining to work in cooperatives.

THE FUTURE OF FARMING

TAX AND SUBSIDIES

We await the outcome of the Agriculture Bill's passage through Parliament and confirmation that the phasing out of Direct Payments will begin in 2021 as planned. However, it is clear that the transition from the Basic Payment Scheme to a system under the Environmental Land Management Scheme where farmers and land managers are incentivised with public money to provide "public goods" (such as, measures to clean air and water, improve biodiversity, and promote public access) is on the horizon. As ever "money talks" and it is expected that financial support for the delivery of "public goods" will result in significant changes in land use.

Recently there have been various proposals to reform inheritance tax and the associated reliefs relating to agricultural and business property. Whatever happens to inheritance tax, it is hoped that any relief targeted at facilitating the succession of agricultural land will be aligned with the subsidies offered to farmers so that the effectiveness of any project to provide a public good is not undermined by a desire to carry on sufficient trading activity to qualify for business property relief. In the

meantime, the interaction between the new subsidies under ELMS and the existing reliefs from inheritance tax should be carefully considered.

SMART FARMING

Throughout history the development of new technologies has contributed to increases in agricultural yields. Boosting food production to support a world population that is projected to reach 9.8 billion by 2050, whilst at the same time protecting and improving the natural environment, will be challenging. However, both of those objectives may be achieved with the help of technology. Examples of "smart farming" include, automated sensors collecting data that is processed by software to manage precisely the resources deployed on farms, the use of artificial intelligence and robots to improve productivity, and genetic editing to alter certain attributes of crops or livestock (such as creating nitrogen-fixing wheat).

Taking the first of those examples, the use of "big data" in farming has the potential to increase efficiencies, lower costs, and improve the environment (for example, by reducing the amount of water, fertiliser and pesticide required to cultivate crops).



The experience of how data has been used in the retail sector, where businesses that sell through e-commerce platforms may not have access to data about their customers, demonstrates the importance of carefully considering the extent of farmers' control over the data collected on their farms. When deciding between providers of data services and reviewing contracts, the following questions illustrate the sort of issues to be considered:

- **Who owns the data?** Will the farmer be able to use historic data if he switches to a different service provider.
- **Who is liable if the data processing results in incorrect decisions?** To what extent is the service provider liable for mistakes that occur due to a fault in the software.
- **Will the processing of data comply with data privacy rules?** For example, does the software which logs the details of the livestock owner comply with GDPR.



"WELL-REGARDED RURAL TEAM WITH CAPABILITIES ACROSS RURAL PROPERTY, TAX AND CONTENTIOUS WORK."

Chambers UK, 2020

THE FUTURE OF FARMING

REWILDING

Returning large areas of farmland to 'nature', as the rewilding movement advocates, upends the conventional view that land should be devoted largely to the production of food. Whilst the movement is not without controversy, the redirection of farmland subsidies towards providing "public goods" may result in some of the measures taken when rewilding being adopted in the management of landed estates. For example, rewilding a portion of an estate may be contemplated to secure planning permission for a significant development opportunity. Legal considerations will need to be borne in mind when examining the potential for rewilding parts (or all) of an estate. Whilst the legal implications of reforestation marginal land may be straightforward to navigate, the development of schemes to create large-scale habitats is likely to be more complex and may require estates to bring tenant farms back in hand where possible or smallholders to cooperate more closely with neighbours. Beyond optimising tax reliefs and subsidies, rewilders will also wish to consider how their capital and employment needs will differ from conventional farming. Those looking to emulate the rewilding project at Knepp in Sussex will have to become visitor attractions as much as farms – a change in land use that will demand solid legal foundations.

"THE TEAM IS VERY STRONG AND EXTREMELY CAPABLE IN THE FIELD FOR ALL MATTERS PERTAINING TO RURAL ESTATES AND PRIVATE CLIENTS."

CHambers UK, 2020



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