

AGRICULTURE AND RURAL ESTATES

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Foreword

The agriculture and rural estates team have been adapting to home working and have continued to be kept very busy, as once again we have seen the resilience of agricultural businesses. There have also been opportunities as people have been forced to think harder about food supply and the idea of “gate to plate” has meant that farm shops have been given the chance to show what they have to offer. On a sadder note, we have really missed seeing you all at the shows this year but we will look forward to the year ahead and to working with you to seize the opportunities it may bring – we are all in this together!



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Agricultural Bill: Sowing the seeds for a new beginning

The exit from the Europe Union means that the UK will be leaving the European Union's Common Agricultural Policy (CAP). The Agriculture Bill provides the legislative framework for the replacement agricultural support schemes. It provides a range of powers to implement new approaches to farm payments and land management. In England, farmers will be paid to produce 'public goods' such as environmental or animal welfare improvements.

Whilst a member of the EU, the UK annually receives £3.5 billion to support farmers under CAP. More than 80% of CAP payments that UK farmers receive are 'direct payments' based on how much land they farm. The remainder pays mainly for rural and environmental farm management schemes. The Government has pledged that the current annual budget to farmers will continue in every year of this Parliament. Direct farm payments going forward will be reduced on a sliding scale and the current system will be replaced.

The Agricultural Bill aims to make provision for the following:

- direct payments following Brexit;
- reports on food security;
- acquisition and use of information connected with food supply chains;
- confer powers to make regulations about the imposition of obligations on business purchasers of agricultural products, marketing standards, organic products and the classification of carcasses;
- the recognition of associations of agricultural producers which may benefit from certain exemptions from competition law;
- the identification and traceability of animals;
- set a target to reduce the UK's NET carbon emissions for agriculture and related land use for the year 2050 which is at least 100% lower than the 1990 baseline;
- red meat levy in Great Britain;
- review amendments to the regime governing agricultural tenancies; and confer power to make regulations about securing compliance with the World Trade Organisation Agreement on Agriculture.

Although some farming organisations and environmental groups both broadly support the new 'public money for public goods' proposal, the bill is receiving criticism from members within the farming community who want food production to be classified as a public good. This classification would mean food production would be more

central to the Bill. The NFU has welcomed recognition in this Bill that "food production and caring for the environment go hand-in-hand." There has also been a raised concern that there are no commitments to maintain food and animal welfare standards for imports under new trade deals post Brexit.

“food production and caring for the environment go hand-in-hand.”

Approximately 62 farm and environment organisations wrote to Boris Johnson PM in January calling for legislation to maintain the UK's exceptional standards. Despite objection, in May Parliament voted against an amendment to the Bill that would guarantee high standards for food and drink entering the country post-Brexit. At a time where the farming community have been recognised by the public for their contribution to food production and as being key workers during the Covid crisis there will undoubtedly be support for local producers and the concept from gate to plate.

In summary, the Bill aims to provide new financial assistance measures and to prescribe the governance of food and agricultural markets post Brexit whilst implementing procedures to allow for transparency and fairness in the agri-food supply chain. We will continue to review the developments and amendments to the Bill so watch this space - whatever the final agreed form this legislation will take, it will undoubtedly shape the future of UK agriculture.



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New rules if you have not made a will

The Covid 19 outbreak has changed all our lives. It has been a triggering point for many people to review their legal affairs especially in regards to their Wills, Lasting Powers of Attorney (LPAs) and tax planning.

The rules that determine what happens if you have not made a will are called intestacy rules and they changed on 6th February 2020. If you have not made a will and you are married your spouse is entitled to what is known as a statutory legacy. The amount of this legacy has been increased from £250,000 to £270,000. If your estate is worth £270,000 or less then the whole estate will pass to your spouse. If the estate is worth more than £270,000 and there are children, the excess will have to be divided equally between your children and the spouse. This may not be the outcome you want.

For example, if your estate is worth £600,000 (£300,000 house, £250,000 land and £50,000 savings) then £270,000 and all your personal possessions will pass to your spouse, and the excess of £330,000 will have to be divided in half. The first half of £165,000 will pass to your spouse and the second half will pass to your children. In this instance your spouse could face the difficult decision of needing to sell property or take out a loan in order to pay for the £165,000. This may prove problematic, especially if your spouse wishes to continue farming the land or needs savings to continue living on the farm.

“If you are unmarried, but in a cohabitation relationship, then your cohabitee will not inherit your estate in accordance with the rules of intestacy.”

This may lead to unnecessary disputes, which can cause delays and increase the cost of dealing with your affairs after you have passed away.

Therefore the increase in the statutory legacy should not be relied upon and instead a valid Will should be prepared. It is only by having a valid Will you can ensure that your estate will be divided in accordance with your wishes. We advise all married couples, civil partners or cohabitees to discuss their tax planning and will wishes with a professional solicitor, who can help them find the best way forward.

The current coronavirus outbreak has made us all realise that there might be a time when we will need to rely upon others to help us with our finances and care needs. Fortunately LPAs can be prepared which will enable you to appoint a trusted person in this regard. The people you appoint are called your attorney's. You can appoint one or more attorneys and they can be your spouse, children or any person you trust. There are two types of LPA one for Property and Financial Affairs and another for Health and Welfare.

The LPA for property and financial affairs gives you the option to appoint attorneys of your choice, who will manage your finances, home and land for you, if you are unable to do so, because of loss of mental capacity or physical inability. We have seen many cases where clients do not have this document in place, and upon losing their mental capacity, the only option for their family is to apply to the court for a deputyship order, which takes much longer, costs more and the people appointed might not be the ones you would wish to appoint to deal with your financial matters. It is therefore best to prepare this document when you can, even if you may not ever need it.

The LPA for health and welfare is used to make decisions about your medical treatment and social care, if you lose your mental capacity and are unable to make those type of decisions yourself. You are in control of who should be appointed and what sort of decisions should be made by your attorneys on your behalf, i.e. whether they can give or refuse consent to medical treatment or whether you continue to live at home with appropriate support or perhaps move to a residential home.

Although coronavirus is still with us, we at Trowers & Hamlins' Private Wealth department are continuing to work for you. We offer free initial consultation, after which a no obligation quotation will be provided to you.

Please do not hesitate to contact us if you would like to discuss any of the above or indeed have any questions related to your Wills, LPAs or tax planning.



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Farmers – stewards of the countryside and pioneers of progression

From the Australian bush fires to the flooding in Yorkshire, climate change is already having devastating impacts across the world.

England has experienced its average hottest day last year and the temperature is increasing by nearly a degree each year. Warm spells are getting longer and more frequent. Total rainfall from extremely wet days is up by 17% from 50 years ago and projections for 2070 forecast 47% less rainfall in summers. These extreme weather events have a significant impact and costs particularly for the agricultural sector. The floods in 2015/2016 affected 650 farms with an average cost per farm of around £12,000. The devastating drought of 1976 had an estimated impact of total crop failure amounting to £3.5 billion. An uncertain future of unprecedented weather pattern changes, coupled with a similar political atmosphere, opens a window of opportunity for essential evasive action.

Whilst it is not all bad news, as research conducted by the Met Office and University of Exeter on the impact of climate change on grassland demonstrates that there will be increased concentration of carbon dioxide in the atmosphere which will cause a fertilisation effect, the European Environment Agency have said that these opportunities could be completely outweighed by the costs incurred because of extreme weather events. Much will depend on how agricultural industries can adapt to cope with the challenging weather and to make their businesses more resilient.

With a world focusing on climate change, pressure is also mounting in order to reach the target of net zero emissions by 2050, and whilst everyone will have to play a role in becoming carbon neutral, agriculture has the ambitious target of reaching carbon neutrality a decade earlier! Our seminar held late last year brought together expert advice from the County Land and Business Association (“CLA”) and the University of Exeter for our landowning clients and our overall message is that agriculture can be the industry leaders.

There are three main sources of emissions from the agriculture industry:

- methane from ruminant livestock;
- nitrous oxide mainly associated with the use of artificial fertilisers; and
- carbon dioxide from farm transport and energy.

The CLA advise that to effectively work towards carbon neutrality it is important to calculate the emissions from each farm and, importantly, the carbon being extracted from the environment. This is referred to as the carbon account of the farm. The identification and measurement of emissions enables the allocation of appropriate solutions to try to mitigate environmental impacts and gives factual representation of the farms efforts to achieve the wider goal.

Two recommended online tools to assist with calculating a carbon account are: Cool Farm Tool and Farm Carbon Cutting Toolkit. Cool Farm Tool is being used widely by companies, such as: M&S, Tesco and John Lewis. It is being used as a tool to audit their farm suppliers to promote the implementation of measures to achieve net zero carbon emissions. The Farm Carbon Cutting Toolkit has been used effectively by farmers and it is user-friendly and free. The Farm Carbon Cutting Toolkit allows for a variety of different details to be entered, including but not limited to: livestock, fertiliser being used, fuel and building materials. A number of organisations also offer to test soils to see how much carbon is being sequestered. These carbon accounting tools sometimes involve sitting down and going through quite a lot of information but the CLA have said that the result obtained can make a big difference to your emissions and to your bottom line. Ultimately, by evidencing a positive carbon account we can start changing the narrative around farming and climate change too.

“There are noticeable benefits from keeping a carbon account.”

For example, by improving feed efficiency and the diet for cattle, less methane is emitted. Therefore, if cattle are fed with higher sugar diets and different forage mixes, the individual monitoring the carbon account can expect to notice a sufficient reduction in emissions from the ruminant livestock. Another method to reduce emissions in the agricultural industry is through animal health and welfare. Other adaptations noticeably being made focus on civil health by improving organic matter in soils, using the soils ability to store water, and improving farm infrastructure to cope with extreme weather events. Certainly opportunities will arise, such as: new crops, a shift in a range of crops, longer growing seasons and possibly diversifying by looking at other streams of revenue such as agroforestry.

In the UK at the moment we have 10 billion tonnes of carbon stored and about 4 billion tonnes of carbon is stored in forests. There are multiple benefits of diversifying by the means of agroforestry as woodland is a natural flood risk management strategy, it increases biodiversity and there are significant public health benefits. There are also opportunities for grants and agricultural policy is gearing towards rewarding this type of diversification.

Although the carbon accounting process starts within the farm gate, it is imperative to consider the wider context and your total supply chain.

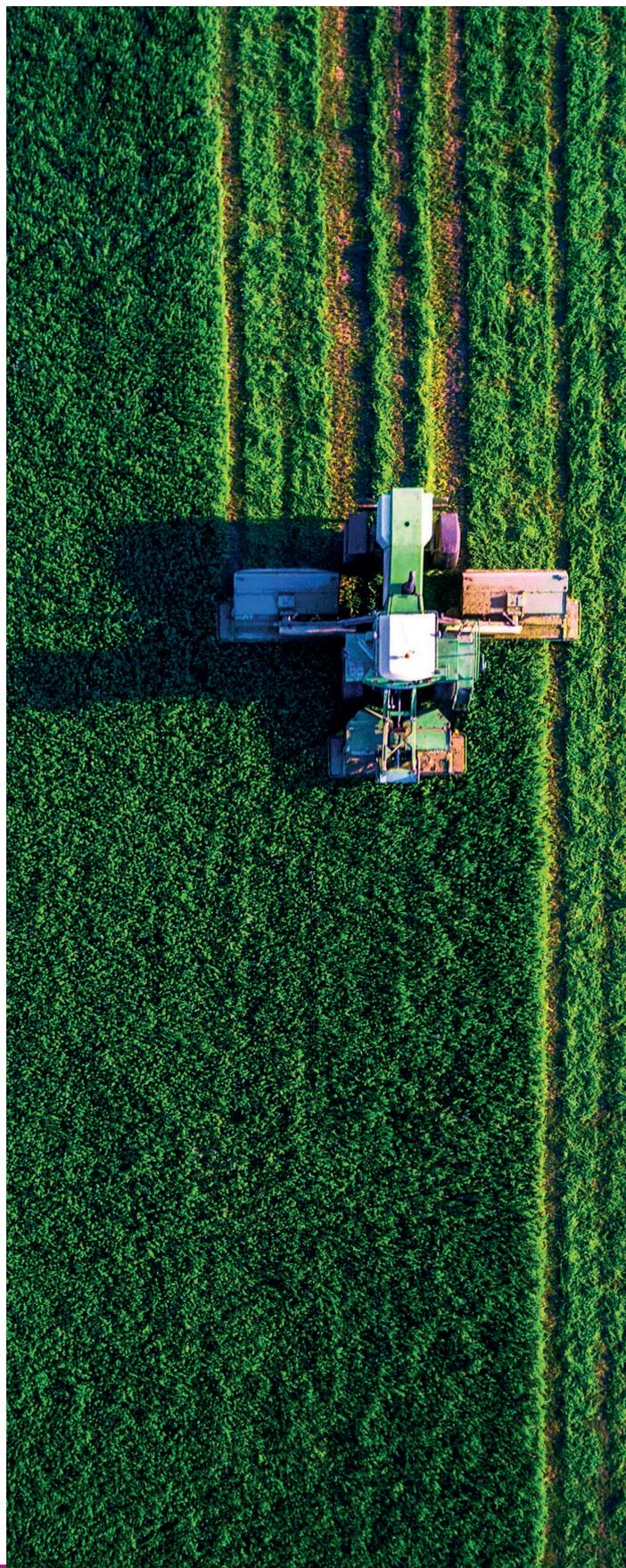
“Where your food is going and where your feed is coming from effects the total emissions.”

Whilst the agricultural industry has been negatively identified in the press, it is actually in a unique position because it is a sector that can actively impact on the climate crisis. The concept of carbon accounting should come as a relief as it will assist in factually demonstrating the impact behind the gates whilst measuring within the wider context the overall contribution towards positive climate change and demonstrating how the sector is working for a better environment.



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Virtual farming

With the cancellation of so many events this year including agricultural shows, has come new innovation. In the case of the agricultural shows this has taken the form of the virtual show allowing agricultural show exhibitors to showcase everything from livestock to flower arranging. This is something that has become hugely popular far beyond the reaches of those who normally attend shows, with some exhibitors becoming internet sensations. Local farmer Kitty Lane explains her experiences.

2020 will go down in history for many reasons. At farmgate level things have been pretty much normal with fewer visitors and less off farm activity.

Prices for produce have in the main been good. Our hobby and major breeding stock promotion tool has been non-existent with no agricultural shows. By now all the major multi-day shows would have finished for us with our flock of Exmoor Horn Sheep, and we would be in the thick of the one day shows.

We've had no late nights getting last minute preparations done and the truck loaded for an early start. No bad tempered Dad on show morning. However, we have been able to show sheep virtually with a few very well organised online national, local and breed society shows, where we have submitted photos of our sheep either prepared or au natural.

Its been great fun and a way to keep in touch with showing friends whilst in isolation. We've picked up a few prizes (virtual as well) including first with a Shearling ewe, which has pleased Dad (even more so as there have been no entry fees). It's been great – well done and a big thanks to the effort of the organisers. We hope that the shows will be back next year.



Kitty Lane
Morrowills Farm



Introducing our newest member

We are delighted to welcome Sam James to the agriculture and rural estates team. We had hoped to introduce you at one of the agricultural shows but until we are able to meet in person this is what he had to say about his new role.

I am a paralegal in the agriculture and rural landed estates team based in the Exeter office. I have had a rather unusual introduction to my role at Trowers & Hamblins, starting a mere week before the implementation of lockdown!

I am working closely with Rebecca Cox and Nicola Janus-Harris and have been involved with all aspects of acquisitions and dispositions of agricultural land and property. I also have experience of reviewing and reporting on commercial leases and agricultural tenancies.

Before beginning this role I lived in Cheltenham, employed as a contract management intern for a global aerospace manufacturing company. My role included reviewing and reporting on contractual terms and conditions, monitoring compliance to domestic and foreign legislation, providing training on various elements of contract law, and liaising with functional owners and customers to achieve business priorities and objectives. The new role and the new location were exciting but it seemed every week I would return to my hometown in Somerset.

Growing up in a small town in Somerset, and working as an outdoor activity instructor on a working farm for over a decade, I have always been engaged with the agricultural industry and have always been outdoorsy. It seems rather fitting to now work within a specialist agricultural property team for this exciting new step in my career.

I am now living back in Plymouth and enjoying the scenic landscapes of the Devon and Cornish coastlines and getting out onto Dartmoor as often as possible to either walk, climb or cycle as these are three of my favourite pastimes.

“I am looking forward to assisting our agricultural clients and working as part of this very successful team.”



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