

Agriculture

An introduction



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Agricultural law is a dynamic and diverse area of law, and a particularly niche one that applies across farming and rural communities. If you are involved with agricultural land, farming or related rural activities you need expert lawyers familiar with all aspects of farmland, farming and rural life.

Whether you run a large or small family business, a large company or a landed estate we can give you the expert advice you need. Our law firm delivers a quality assured service, focussing on your specific needs, and is committed to securing the best result for you.

Our practical understanding gives us a unique edge for our clients.

Our areas of expertise include:

- Agricultural Property and Tenancy Issues
- Basic Payment Scheme
- Succession and Inheritance Tax
- Wind and Solar Farms
- Agricultural Disputes
- Dealing with Regulators
- Rural Leisure Pursuits.

This brief guide touches on some of the most important issues that arise in practice, but it is a complex area and there are many other factors to consider. It is important you seek advice early.

This booklet deals in general terms with a complex subject. Whilst we believe the contents to be correct, they should not be regarded as sufficiently full, accurate or precise so as to apply to any particular situation. You must always seek legal advice concerning any situations referred to in this booklet.

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Agricultural Property and Tenancy Issues

Agricultural property involves both freehold and tenanted land. We advise on all aspects of agricultural property and also liaise closely with local and national land agents experienced in agricultural matters.

The purchase or tenancing of agricultural property invariably involves important issues over and above the simple land registration issues, wayleave agreements, easements for pipes and cables, water supply, drainage and rights of way. Issues such as milk quota, entitlements under the Basic Payment Scheme, environmental schemes and the like all need to be considered.

If you rent agricultural land, you may have an agricultural tenancy, even if there is nothing in writing. Your tenancy could be a 1986 Act tenancy or a Farm Business Tenancy (where at least part of the tenanted land must be farmed throughout the life of the tenancy), depending on whether your tenancy was agreed before or after 1 September 1995.

Tenancies include important provisions in relation to rent and rent review, repairs and in the case of 1986 Act tenancies the possibility of statutory succession. Expert legal advice is needed on how to interpret these provisions. It is also important to take advice before entering into new tenancies to ensure that the appropriate provisions are incorporated. When your tenancy ends, you may be entitled to compensation. There may be tax implications. We can give the expert advice you need.

Basic Payment Scheme ('BPS')

The Basic Payment Scheme (BPS) was introduced in 2015, replacing the Single Payment Scheme. If farmers hold the requisite number of entitlements, and comply with the scheme's requirements, they are entitled to receive an annual payment. Cross compliance requirements requiring the farmer to maintain land in 'Good Agricultural and Environmental Condition' are strictly applied by the Rural Payments Agency ('RPA').

BPS is a complex area to understand. We will work with your land agent on all BPS issues including mapping, cross compliance, the potential value of your entitlements, completing the necessary forms, entitlement transfers and sale and purchase, and tenancing, of land involving entitlements.

Wind and Solar Farms

Renewable energy, such as a wind farm project, is a relatively recent concept. Again it is important to obtain professional advice early and certainly before you enter into any form of agreement.

Our solicitors will advise on all stages of your renewable energy company and by guiding you through the process will enable you to achieve a suitable deal with your wind farm supplier. We can also advise you on related planning issues, and the potential environmental and ecological impact of your wind farm, - including offshore wind turbines.

Succession and Inheritance Tax

If you own agricultural land, a farming or agricultural business, you should have an effective succession plan in place, whether this is through a will, trusts or both. Traditionally, farms are passed down through successive generations but it is crucially important that your property and business assets are divided up properly according to your wishes so that you can preserve them for the next generation.

The issues involved are complex, and costly and lengthy disputes can easily be avoided when expert legal advice is taken.

We can advise you on capital gains tax, inheritance tax and the appropriate reliefs that may apply. The value of agricultural land has been steadily rising for many years and inheritance tax is highly likely to affect your estate when you die. Whilst agricultural property relief may be available you need expert advice to understand how it applies in practice.

We can draw up an effective will and, where necessary, create a trust. Even where you have succession plans (eg through a will) in place, you should regularly review your affairs.

We can also help you effectively structure your business to take full advantage of tax reliefs and allowances available at any given time.

Disputes

Disputes in connection with agricultural land can involve:

- contract disputes: eg boundaries, rights of way, trespassers, or undisclosed tenancies
- planning and environmental disputes: eg pollution, statutory nuisance, construction matters and planning issues
- employment disputes: between employers and employees whether on farms or in other agricultural businesses
- partnership disputes: leading to the dissolution of a farming partnership.

Other common areas of dispute include matters under the Agricultural Holdings Act 1986 (eg: notices to quit, rent review, and repairs and dilapidations); and under the Agricultural Tenancies Act 1995 (breaches of covenant, insolvency and forfeiture).

If you are considering taking legal action or are defending a claim against you, we can work in your best interests to avoid going to court by alternative methods of dispute resolution such as mediation.

If litigation becomes unavoidable, we will work with you to produce the best possible outcome in court for you and your business.

Regulators

Agriculture and rural pursuits are highly regulated. Whether as a landowner or a tenant you may be involved in an investigation involving one of the many regulators, - the Environment Agency, the RPA, Trading Standards, DEFRA, etc.

We can provide prompt and expert advice and appropriate representation when required.

Rural Leisure Pursuits

Rural leisure pursuits are very popular with an estimated two thirds of land in the UK used for shooting (or shooting-related), fishing and other outdoor activities. They are very much part and parcel of rural life.

It is crucial that landowners and tenants know the extent of their rights and obligations in relation to such activities.

If you have rights (known in law as profits à prendre) over land to shoot, hunt or fish, these can be protected by simple registration at the Land Registry. Registration grants protection of the rights which are then binding against the landowner and his/her successors in title.

It is most important that the rights of both landowner and tenant are mutually workable. A landowner, for example, will want to ensure a tenant's shooting activities do not adversely affect his agricultural operations. Conversely, the tenant will want to ensure his enjoyment of his shooting rights are not adversely affected by the landlord's operations.

What should I do next?

There are many other important issues relating to agricultural property and practice.

Our agricultural team is available to help. If we have acted for you before, please contact the person you last dealt with and he or she will make the necessary arrangements. If we have not acted for you before, please contact one of our team on the number provided overleaf.

Please contact your LawNet Solicitor
to discuss agriculture matters

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