



Hewitsons Agriculture, Food & Rural Business

LEGAL UPDATE

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In this issue...

- Electrical Safety Regulations for Let Properties
- Changes to tax position where employees live on Farm
- The Agriculture Bill and it's progress
- Dairy Response Fund now open
- Farming Recovery Fund increased
- Comment on the Case of Borwick Development Solutions Ltd v Clear Water Fisheries Ltd
- Comment on the Case of Poste Hotel Ltd v Tracey Anne Cousins
- Unexplained Wealth Orders

Electrical Safety Regulations for Let Properties

New electrical safety regulations came into force on 1 June 2020 for rented properties. They will apply to all new lettings of dwellings (including dwellings within Farm Business Tenancies) from 1 July 2020, and all existing lettings which include a dwelling from 1 July 2021. This will include farmhouses and cottages let under Agricultural Holdings Act tenancies.

The regulations require landlords to have electrical installations inspected regularly by a competent person and to provide a copy of the test to their tenants. For more information, please see the Government guidance [here](#).

Changes to tax position where employees live on Farm

At present, the provision of living accommodation to farm workers or retired farm workers benefits from an extra statutory concession meaning it is not treated as a benefit in kind. However HMRC have announced they will be removing this concession on 6 April 2021. We therefore recommend that the status of all employees, retired employees and widows/widowers of retired employees which are living on the Farm or Estate are reviewed now to ensure there are no unexpected tax charges. If necessary, you should take advice from your Accountant or tax advisor.

The Agriculture Bill and it's progress

The Agriculture Bill is now passing through the House of Lords and has been receiving a lot of coverage in the press. The Bill will govern the new regime for agriculture following its departure from the EU. Proposed amendments to the Bill in the House of Commons requiring imported food to comply with current British standards were not passed. The criticism being levied is that lower standards mean that British farmers may be undercut by cheaper food imports. The Bill as currently drafted allows Statutory Instruments to change the regulations and authorisations on food standards. Statutory Instruments give little opportunity for scrutiny before they are passed meaning that standards could change quickly to respond to trade deals. This issue is now being debated in the House of Lords and is something many will be following closely.

Dairy Response Fund now open

The Dairy Response Fund opened for applications on 18 June and farmers hope to begin receiving payments on 6 July. Dairy Farmers that have suffered price losses of 25% or more in April and May can apply for a single payment from the fund. Payments of up to £10,000 are available but are capped at 70% of the losses suffered.

Farming Recovery Fund increased

The Farming Recovery Fund has received a significant extension. An additional £6,000,000 has been made available, taking its total to £10,000,000. The fund's geographic extent has also been increased, with further geographic extensions also possible. Grants of between £500 and £25,000 are available for uninsurable items and activities where agricultural land has been affected by flooding, though the grant awarded may not cover the whole cost. Applications should be made to the Rural Payment Agency and supported by photographic and mapping evidence. More details of the fund criteria and application process can be found [here](#).

Comment on the Case of Borwick Development Solutions Ltd v Clear Water Fisheries Ltd

This case was an appeal against an earlier decision by the High Court concerning fish which were kept in commercial fishing lakes for the purposes of the sport of angling and whether rights could be established in the same. The fish in question had never lived in the wild and were unable to escape the fishing lakes. While domestic animals can be owned, wild animals cannot. However, property rights in wild animals can be acquired through ownership of the land where the animals are kept or when the animals are in someone's possession. The seller in this case had acquired rights in the fish, as he owned the land where they were kept and the effort and expense that had gone into acquiring the fish, releasing them into the lakes and looking after them qualified as possession.

The original decision of the High Court held that the Seller owned the fish however the Court of Appeal found that when the property was transferred to the buyer, the transfer did not expressly refer to the fish nor did it reserve to the seller any right of access over the land in connection with them. Due to the fact that the seller's rights over the fish depended on his ownership and control of the land and his possession of the fish, his rights came to an end when the land was transferred to the buyer.

This case highlights the importance of considering which items will pass on a sale of land and dealing with rights regarding animals expressly in the contract. Any sporting rights reserved from the sale of land must be expressly reserved.

Comment on the Case of Poste Hotel Ltd v Tracey Anne Cousins

This is a case of competing rights and whether a right to park in front of an hotel laundry can interfere with a right of way to get to that hotel. Here the right of way had been in use longer than the right to park and so the hotel was successful in preventing the parking. However, it illustrates the problems experienced by businesses needing access over third party land used by others. It also demonstrates how landowners who own an accessway can find themselves in the middle of a dispute not of their making.

It does highlight the need for vigilance in preventing people acquiring rights that can disrupt a landowner's use. Consideration should be given where parking is an issue to putting up signs saying, "No Parking", writing letters asking people not to park (to prevent the assertion there was no challenge to the parking) or (where the parking space is owned) granting a parking licence which can be easily terminated when access is needed.

Unexplained Wealth Orders

Unexplained Wealth Orders are powers that can require owners of property to disclose how they acquired the property. These powers can be used where a Politically Exposed Person or someone who is suspected of serious crime or linked to a suspect of serious crime own a property valued at over £50,000.00. This can include looking into how a trust or company has come to acquire an asset. A property sale can be prevented or delayed whilst this process takes place.

These are relatively new power but it highlights the need to investigate the seller of a high value property. It also shows the need to keep good records as the burden is on the person being investigated to show the legitimacy of the asset.

For more information or to discuss any issues raised by the above, please speak to your usual contact in the Hewitsons [Agricultural, Food & Rural Business team](#).

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