



## Hewitsons' Agriculture, Food & Rural Business LEGAL UPDATE

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### Change to Greening Rules



Gareth Williams  
Partner

The European Commission has introduced new rules with the intent of simplifying Greening Payments. The rules come into force at a European level on 3 July 2017 however member states can choose not to apply them until 2018. To date they have not been applied in the United Kingdom.

The most controversial element of the new rules is the ban on use of pesticides on productive and potentially productive Environmental Focus Areas (EFA's). Other changes introduced are:-

- The definition of what constitutes an EFA has been amended with increased flexibility on what landscape features can qualify as an EFA.
- More flexibility is given to countries with regards to the period permitted for crop diversification.
- Clearer definitions for any EFA designated as land lying fallow.

- The removal of deadlines for sowing catch crops.

For more information, please contact Gareth Williams on 01604 463344 or [click here](#) to email Gareth.

## **The Livelihood Condition and applications for succession upon retirement**



Anna Gora  
Senior Solicitor

The Upper Tribunal have recently offered further guidance on the "Livelihood Condition" which must be satisfied upon succession to an agricultural holding upon the retirement of the previous tenant. Clarification was given as to whether the seven year period for the purpose of the principle source of livelihood test runs from the date of the retirement notice or the date of termination by the Tribunal. To read the full article, please [click here](#).

## **Meaning of Residential Curtilage clarified by the Courts**



Deborah Sharples  
Partner

The Planning Court has recently considered the meaning of 'residential curtilage'.

The land in question was in common ownership with a dwelling house and had a Lawful Development Certificate confirming that it could be used for purposes incidental to the enjoyment of the dwelling house, but it was physically separated from the rest of the land by hedges and fencing. A planning inspector decided that it was not part of the residential curtilage of the dwelling house because of the physical separation. The judge upheld the decision, saying that that the function of the land, whilst being relevant to the question of curtilage, was not determinative.

This case will be of interest to anyone considering exercising permitted development rights on land associated with a residential dwelling or wanting to establish whether a structure is listed by virtue of being within the curtilage of a listed building. It is likely to make it easier to argue that farm buildings are not within the curtilage of a listed building.

For more information, please contact Deborah Sharples on 01223 532757 or [click here](#) to email Deborah.

## Launch of Public Trusts Register



Eric Wardle  
Chartered Accountant

HMRC has launched the Trusts Registration Service as an online service in June 2017. The Fourth EU Anti-Money Laundering Directive requires EU member states to operate national registers of beneficial ownership of trusts. All trusts with a UK tax consequence will need to be registered with the new Trusts Registration Service. The register will include details of the trust assets, and the identities of the Settlor, trustees and beneficiaries. This will include their name, date of birth and National Insurance number.

In its current form, the power to inspect the register is limited to competent authorities and Financial Intelligence Units in the UK and information may be disclosed to other EU Member States. Member states have discretion to provide access to regulated firms for due diligence purposes, but HM Treasury states beneficial ownership details will not be shared with private entities or individuals.

The implications of Brexit appear not to have been considered in all of this. The Fifth Money Laundering Directive is on the horizon where the plan is for the central registers for both corporate and trusts to be interconnected with the European Central Platform. As well as contemplating access to central registers for tax authorities, the proposed directive would possibly give greater public access to central registers and this could potentially make beneficiaries of trusts vulnerable to identity theft.

If you would like advice, please contact Eric Wardle on 01604 463110 or [click here](#) to email Eric.

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This Bulletin is produced by Hewitsons for clients and contacts of the firm to provide them with a useful summary of recent cases, journal reports, developments in the law and dates to be aware of. It is not a definitive statement of the law in any area.

Advice should be sought from a solicitor in the Agriculture, Food & Rural Team at Hewitsons in respect of any information contained in this Bulletin that affects any matter with which you may be concerned. Hewitsons offers a full agricultural, food and rural service. This Bulletin will help to keep those involved up to date with the latest developments.

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