

FARMING AND PROPERTY BULLETIN – DECEMBER 2015

Basic Payment Scheme – English Entitlement Values

The Rural Payments Agency has announced BPS entitlement values for 2015. The estimated payment in the Lowland region falls by 7.3% compared to the 2014 rate under SPS.

The table below shows the published rates and the actual payments that farmers will receive. This is based on the 2015 conversion rate of €1 = £0.73129. The net payments shown are after Financial Discipline at 1.393%.

	GROSS PAYMENTS (€ PER HA)			NET BPS PAYMENTS (£ PER HA)
	2015 Standard	2015 Greening	2015 Total	2015
Lowland	€171.83	€76.19	€248.02	£178.85
SDA Non-Moorland	€170.60	€75.64	€246.24	£177.57
Moorland	€45.07	€19.99	€65.06	£46.92

Basic Payment Scheme – Entitlement Transfers

The RPA has advised that processing of RLE1 forms relating to entitlement transfers for 2015 applications has now been completed. Notifications of transfers should all be sent out by the end of November.

Entitlement Statements are unlikely to be available until sometime in the New Year. Statements are likely to be posted out. Claimants may therefore not be certain about the precise number of BPS entitlements that they hold. Payments that arrive in December, may or may not give an idea as to entitlement numbers. It would appear to make sense to wait until Statements are available before transfers are undertaken.

However, the Active Farmer declaration for the 2015 BPS year only lasts until 31st December. For any transfers after that date, a new Active Farmer declaration will have to be filled out to accompany the RLE1 forms. This form has not yet been made available by the RPA.

The deadline for transfers in England in 2016 is likely to be aligned with the deadline for claims as it was for 2015. As the 15th May falls on a Sunday, the last date for submissions is looking likely for the 16th May.

Autumn Spending Review

As a result of the Chancellors Autumn Statement and Spending Review on the 25th November a number of announcements were made which may be of interest to farming and rural businesses:

- Profit averaging for farmers will be extended to five years (with the option of two years also being retained)
- An additional 3% Stamp Duty Land Tax will be charged on purchases of additional properties that are not the main residence. This appears to target second-home buyers and buy-to-let landlords.
- The proposal to reduce Tax Credits set out in the July Budget has been dropped.
- Local Authorities will have greater powers to vary Business rates.
- Small Business rate Relief will be extended by a further 12 months to April 2017.
- The Government has committed to increase the rate of homebuilding with an emphasis on affordable housing. This is to include a further reform of the Planning system which may increase development opportunities.
- DEFRA faces a 15% cut in its budget over the next 5 years.
- £400m per year of spending on flood defence programmes, spending on plant and animal disease prevention and spending on National Parks and Areas of Outstanding Natural Beauty.

Immigration Checks – Residential Property

The Government has confirmed that the requirement to carry out Right to Rent checks on the immigration status of tenants will be rolled out across England from 1st February 2016.

The Immigration Act 2014 includes provisions which will require landlords to check the immigration status of tenants before the start of the tenancy. The new rules will apply to any tenancy which includes residential property in England which is to be used as the only or main dwelling of the occupier. Note that this is not restricted to Assured Shorthold Tenancies and could include new Farm Business Tenancies which include residential property, or indeed business property with a residential element let under the Landlord and Tenant Act 1954.

The key provision of the Act is that a landlord must not enter into a “residential tenancy agreement” which allows occupation of premises by any adult (not just the tenant) who is disqualified by reason of their immigration status (s.22). A “residential tenancy agreement” is defined in s.20 as being a tenancy (including a lease, licence, sub-lease or sub-tenancy) which grants a right of occupation of premises for residential use and provides for payment of rent (whether or not it is a market rent). “Premises” is defined in s.37(1) as including land, buildings, moveable structures, vehicles and vessels, so that a caravan or houseboat would appear to fall within the definition if it was being let for residential use as the tenant’s main or only home.

A person is disqualified from taking private rented housing if:

- They are not a relevant national (which means a British citizen, a national of Switzerland or a national of a European Economic Area state, i.e. the 28 EU member states plus Iceland, Lichtenstein and Norway)
- They require leave to enter or remain in the UK but they do not have it.

Note that these requirements apply to any adult who will be living in the premises and not just the named tenant.

If a person has a limited right to enter or remain in the UK at the start of the tenancy but that right expires during the term of the tenancy, then the person will be disqualified from being able to continue to live in the rented property. If that happens, the landlord should notify the Secretary of State as soon as he becomes aware of it.

It is therefore important that the above documents are provided to each tenant and a record is kept that the tenant has received these.

Where a person’s immigration status is unclear, the Home Office is to provide a checking service which will respond to queries within two days.

Clauses in a tenancy agreement which aim to prohibit occupation by any person who is disqualified due to their immigration status will be insufficient on their own to protect a landlord; he must have undertaken pre-tenancy checks to satisfy himself as to the immigration status.

Penalties for failure to comply with the rules include a fine of up to £3,000. A landlord will have a defence if he had engaged an agent to carry out the checks for him, in which case the agent may become liable for the fine.

55TH ANNUAL HAY & STRAW AUCTION SALE

TUESDAY 12TH JANUARY 2015

at 2.30pm

at the Loyd Lindsay Rooms, Ardington

Wantage, Oxon OX12 8PS

Entry forms available from the office or www.adkin.co.uk

Entries to be received by Monday 14th December 2015.

All enquiries to Philip Pocock (01235 862888)